













# PROBLEMS OF PEACE

SIXTH SERIES



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SIXTH SERIES

LECTURES DELIVERED AT  
THE GENEVA INSTITUTE OF  
INTERNATIONAL RELATIONS

August 1931

*by*

H. J. Laski, A. E. Zimmern  
and others

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## INTRODUCTION

**T**HIS volume contains the lectures delivered at the meeting of the Geneva Institute of International Relations held in Geneva in August 1931. It thus constitutes the sixth of the series containing the Proceedings of the Institute.

The attention of those interested in public affairs is becoming more and more concentrated on their international aspects, and as a consequence addresses and writings on international problems are becoming increasingly numerous. It might be thought, therefore, that still another volume of international studies requires a word of justification.

To those who are familiar with the work of the Geneva Institute, either by attendance at its meetings or through an acquaintance with its published proceedings, such justification is, it may be hoped, not necessary. For those, however, who come across this series for the first time, it may be useful to indicate the special, and indeed unique, character of the Institute's contribution to the study of international questions. Many of the authors of the addresses in the present volume are well-known in the field of international studies. Their contributions to the present volume have, however, this distinctive character, that they were made in Geneva itself during a week of personal contact with the great institutions of world administration, and in an atmosphere where academic discussion inevitably tends to be leavened by considerations of practical possibility and political expediency. The atmosphere of Geneva is sometimes described as though it corresponded to a kind of international revivalism in which statesmen were apt to lose their sense of realities

and agree to solutions or proposals which in their sane moments they would be the first to reject. There is still idealism in Geneva, but it is of a severely practical kind. The search for the modalities of action, the exploration of the possibilities of practical achievement is Geneva's main concern, and the main preoccupation of the new international civil service. In the Institute the elements that represent thought and the elements that represent action meet to the undoubted advantage of both, and it is the result of that contact that gives to most of the lectures in this volume their special interest and quality.

It may be hoped also that this volume, like its predecessors, will afford a valuable commentary on the current development of certain international problems by writers of unchallenged authority. M. Rolin on Disarmament, Mr. Hearne on the Codification of International Law, Dr. Leverkuehn on International Financial Relations and Dr. Sherwood Eddy on Russia have all managed to compress into a length which is little greater than that of a review article the essential elements of the problems with which they have dealt: while Professor Douglas on Unemployment, Professor Zimmern on Europe, Mr. Phelan on the British Commonwealth and Professor Laski on the Theory of an International Society have within similar limits examined the basis of theory on which decisions or action in the future will have to be taken. Professor Redslob has analysed the legal structure of the League, Mr. Mowrer discusses the problems of the modern newspaper and its influence on public opinion, Mr. Johnston the rôle of Labour in the world community and Professor Garner the ever fascinating and elusive problem of opinion in the United States on foreign policy.

The thanks of the Institute are due to them all for contri-

butions that are as important as they are interesting, and it may be hoped that those thanks will be echoed by busy readers who will find in the present volume an easy and rapid way of keeping abreast of international developments under the expert guidance of authors who speak with authority and experience.

THE EDITOR

#### NOTE

The Geneva Institute is an independent organization for the study of International Relations. It has no thesis to expound and no viewpoint to defend. It endeavours to secure as Lecturers and Leaders of Discussion those who are generally recognized as authorities, whether they be politicians, professors, civil servants, publicists or eminent officials of the League with practical experience of its administration.

In 1932 the Institute will study the World Crisis. Particulars of the session to be held from August 14th to 19th may be obtained from :—

The Secretary, The Geneva Institute of International Relations,  
15, Grosvenor Crescent, London, S.W.1.

The Assistant Secretary, The Geneva Institute of International Relations, International Club, 4 rue de Monthoux, Geneva.

The Secretary, The League of Nations Association,  
6 East 39th Street, New York City.





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## CHAPTER I

# THE LEAGUE AS A CONFEDERATION

Professor ROBERT REDSLOB:

THE League of Nations is manifestly a great innovation in the world of foreign policy and international law. Nevertheless, if we desire to understand clearly the nature of the League, it is not sufficient to affirm that we stand before a structure *sui generis*, a doubtful formula which implies a good deal of perplexity. We ought, on the contrary, to compare the new system with similar formations in history.

### i. *Some Earlier Confederations.*

Studying the constitution of the League, our first impression is that of similarity to the traditional form of confederation which, in past times, offered a valuable solution for problems of State-connexion.

The chief confederations of history are the union of the Swiss Cantons and that of the German States, both established in 1815. Other examples could be cited, such as the United Provinces of the Netherlands, 1579-1795; the North American League of 1781; the Rheinbund of 1806. Consequently a comparison between these and the actual League of Geneva may be the first suitable object of our inquiry.

The most striking similarity uniting all these ancient political forms is the fact that there was no universal State comprising and overruling the different countries which adhered to the common statute. In a word, the partners



## 2      *The League as a Confederation*

were bound by a simple treaty; they formed an association, nothing else: they maintained their sovereignty. The Swiss Compact of 1815 was built on the conception of independent estates uniting themselves in perfect freedom; it was not until 1848 that a federal Government rose among the Helvetian lands. The German Union of the same year was conceived as an international society of sovereign princes and free towns.

‘Eine Gemeinschaft selbstaendiger unter sich unabhaengiger Staaten, mit wechselseitigen gleichen Vertragsrechten und Vertragsobliegenheiten.’

That system lasted half a century; in 1867 and 1871 its place was taken by a federal State in the North of Germany, and, later on, by the Empire.

‘The province of Holland’, claims Oldenbarnevelt, and what he says refers also to the other allied countries of the Netherlands, ‘is a free State which, in the exercise of its supreme and sovereign rights, recognizes only the Almighty God above it.’

The North-American statute of 1781 provides that

‘each State retains its sovereignty, freedom, and independence.’

‘Le titre de prince-primat’, says the Rhine-statute, ‘n’emporte avec lui aucune prérogative contraire à la plénitude de la souveraineté dont chacun des Confédérés doit jouir.’

The same feature appears in the actual League of Nations. No universal and overwhelming State, no ‘super-État’, is established over the political communities which ratified the Covenant. We have not nowadays, in the world, a federal State dominating an immense part of mankind. The League of Nations, like the precedents we have noted, does not

involve subjection to a common Government, but confines itself to voluntary agreement.

The most solid proof of that assertion is a psychological one.

ii. *Is the League a Confederation?*

(a) THE PSYCHOLOGICAL ARGUMENT.

A State is in no way imaginable if it is not sustained by the will of its subjects accepting the laws it gives and the government it imposes. At the basis of a State there is invariably a common assent of the people, not a real 'social contract with precise rules expressly assented, but free submission as a matter of fact. No phenomenon of that sort appears among the different nations that belong to the system of Geneva. The citizens of England, France, Italy, or other countries do not have towards the leading authorities of the League that characteristic state of mind they have towards their home Governments. They cannot imagine orders issued by the Assembly or the Council and claiming their obedience. They do not know, with respect to these bodies, a feeling like that of fidelity. In short, there is, nowadays, no psychological basis for a universal imperium. Even if the Covenant had proclaimed the establishment of a world State, that would be a vain formula, without reality. States cannot be created on paper. States are living entities. They do or do not exist, according as to whether they have vital force or lack it. The League of Nations is not a State, because it is not felt to be a State.

(b) THE CONSTITUTION OF THE LEAGUE.

Other arguments of secondary importance lead to the same conclusion.

#### 4      *The League as a Confederation*

A treaty originates from free consent and so it may be dissolved by disagreement: it may be denounced. It is conceivable that a partner may leave a community established by a compact, or find himself excluded by his associates, but such a procedure is not imaginable in a State because here the uniting bond is not a treaty, but domination. It follows that an international State connexion is subject to revocation, but that a federal State is not to be disrupted by such an act. Bavaria could not secede from the Empire; the Canton of Bâle could not separate from Switzerland. If Calhoun, in the American Civil War, claimed on behalf of the Southern countries a right of secession, his argument was that the United States were a mere association of sovereign bodies, linked together by the mere virtue of a treaty. He invokes—

‘the nature of a compact, where the parties are sovereign; and, of course, have no higher authority to which to appeal.’

Now, it is a well-known fact that the Covenant allows that—

‘Any member of the League may, after two years’ notice of its intention to do so, withdraw from the League, provided that all its international obligations and all its obligations under this Covenant shall have been fulfilled.’

This article, it is much to be regretted, has already been applied several times. The most striking example was the denunciation of the Covenant by Spain and Brazil in 1926, when the candidature of Germany for entrance into the League gave rise to the difficult problem of increasing the permanent seats in the Council. Spain fortunately retracted its fatal resolution before the two years’ delay expired; but Brazil is actually lost for the association.

There is another contingency where a partner can separate from the League, and here without any condition or delay. Everyone knows that the Covenant can be amended at any time, provided that the amending Act be ratified by all States represented in the Council and by the majority of the States who compose the Assembly. But as it is not logical that in a system of compact one partner should be forced to submit to statutory rules which it disapproves, the Covenant grants to a dissenting member the right to withdraw his participation.

The right of denunciation, however, belongs not only to an individual associate, but also, in certain cases, to the League itself. A Member State which has violated any rule of the Covenant may be deprived of its partnership by a vote of the Council.

Thus, admitting the possibility of denunciation in three different contingencies, the League recognizes that its nature is that of a compact and not that of a State.

Another consideration leads to the same conclusion. If the League of Nations were a federal State, a country could only become a partner of the system by amending its constitution in order to restrain its own powers, and to abdicate its sovereign character in favour of the new superstructure. The Swiss Cantons, when they built up their Commonwealth in 1848, the German States when they founded the Empire in 1870, accepted the new statute by laws in the form provided for constitutional matters. However, looking at the way in which the League of Nations was established, we observe that, as a matter of principle, that method was not employed. France did not take a vote of the National Assembly, which retains the constitutional power; it was by a mere law that the Republic accepted

## 6      *The League as a Confederation*

the Treaty of Versailles and the Covenant which is a part of it. Belgium also contented itself with an ordinary law, whereas an amendment of the fundamental statute would have required the dissolution of the two Houses. In Japan the Treaty of Versailles was simply approved by the Secret Council, and not by a vote of Parliament with the necessary majority. As for England, we are unable here to apply our argument because in this country the procedure of constitutional amendment does not differ from that used for regular legislation. Switzerland, we must avow, chose the more difficult method. There the Federal Assembly ordered a referendum. But the reason of that procedure seems to have been the political consideration that, becoming a partner to the League of Nations, the land could not, in future, entirely maintain its traditional neutrality, and that such an important change of orientation should be discussed and resolved by the whole people.

Finally, we may observe that the League of Nations has an organ whose form of action is incompatible with the character of a State, for the Assembly, comprising delegations of all adhering countries, takes its decisions by unanimous vote. Such a proceeding by general agreement, where a single veto has the power of annihilating every measure, is regular in a system of compact, based on individual adhesion; but it would be contradictory in a State, where the essential feature is the dominating force, the imperium.

### (c) ITS AIMS.

Having surveyed the nature of the tie which constitutes the League of Nations, we must consider the aims of the Covenant. The chief purpose of the League of Nations,

as of ancient Confederations, is to uphold the security of the united countries against outward peril and to maintain peace among the partners.

The Members of the League, by the Tenth Article of the Covenant, undertake to respect and preserve mutually, as against external aggression, their territorial integrity and existing political independence. They agree further, by the Twelfth Article, that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council.

We find analogous institutions in previous Confederations. The German system of 1815 seeks to maintain the internal and exterior security of the country as a whole, and to preserve the independence and inviolability of the single States. All members promise that they will protect the whole of Germany as well as each associated land against attack; they guarantee each other their territories. The partners must not, under any pretext, wage war among themselves, nor pursue their conflicts by means of violence, but bring their litigations before the federal Diet which will act as umpire or mediate between them.

The Swiss Confederation of the same year seeks to preserve liberty, independence, and security from all aggression, and to maintain tranquillity and order in the land. Frontiers are put under joint control. Controversies between Allies have to be resolved by a college of elected magistrates, who will proceed by conciliation and, in the case of need, by arbitrament.

‘Sic trachten den Streit in der Minne und auf dem Pfad der Vermittelung beizulegen.’

‘Geschiehet aber dieses nicht, so sprechen sie über die Streitsache, nach den Rechten, endlich ab.’

## 8      *The League as a Confederation*

The Swiss people apply here an ancient tradition which goes back to the first alliance of the three primitive Cantons, the Waldstaette in 1291.

The Rhine Confederates bind themselves to uphold the interior and exterior peace, and to submit their litigations to the Diet of Frankfort. The American States, in 1781—

‘enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever. . . . The United States in Congress assembled shall be the last resort, on appeal, in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever.’

The Compact of Utrecht provides that the Allies will help each other in case of injustice perpetrated towards the community or a single partner; a conflict about particular rights or privileges claimed by the federated Provinces, their towns or citizens, will be regulated by way of justice or friendly understanding.

Endeavouring to preserve peace among its partners, the Covenant provides a mechanism of coercion applicable towards a State, member of the League, waging unlawful war. That seems, at first sight, a strange institution in an international system of this character. Nevertheless, it is possible to imagine a compact which stipulates compulsory measures towards an associate who may have broken essential obligations. Such an institution has to be conceived as a treaty of alliance between yet undetermined partners, whose

individuality, as well as that of their opponent, will be only fixed by the illegality committed.

The previous compacts know that method of procedure. The German Confederation, in case all constitutional means would be exhausted, has special rules to be applied by one or more Governments not implicated in the affair. In the Swiss Compact of 1815 the General Assembly of the Cantons, 'Tagsatzung', is entrusted with the right to decide the necessary measures in order to preserve the interior peace and to enforce arbitration. We may cite also here the rule of 1291:

'Que pars respueret ordinationem, alii contrarii debent fore conspirati.' 'Si vero guerra vel discordia inter aliquos de conspiratis suborta fuerit, si pars una litigantium justicie vel satisfactionis non curat recipere complementum, reliquam defendere tenentur coniurati.'

We see, then, that the first and essential end of the Covenant, as well as of antecedent compacts, is the maintenance of security and peace. However, this aim does not exclude others. Thus the League of Nations endeavours, in the most various domains, to co-ordinate the work of mankind and to realize some of the ideals of humanity. It makes provision to secure and maintain freedom of communications, of transit, and equitable treatment of commerce. It strives to create and uphold fair and humane conditions of labour.

Another example is the control of mandated territories, where the well-being and development of indigenous peoples have to be regarded as a sacred trust of civilization. Looking at the German Confederation, we observe that here also the community manages diverse matters, not touching supreme political questions, dealing, for instance, with particular



constitutions, individual rights, religion, finance, and jurisdiction. Similarly the Swiss Compact of 1815. The American treaty of 1781, paving the way to the future federal State, disposes on all topics which are considered of general interest. The United Provinces of the Netherlands, forming, if not by their structure, at least by their political performance, a sort of state-entity, have also a great radius of action.

(d) ITS ORGANS.

We must also remember that each of these bodies has an organ entitled to speak in its name and to take resolutions on its behalf. We may mention the Assembly and the Council of Geneva; the Diet of Frankfort leading the German corporation; the Tagsatzung, grouping the Swiss countries, and the presiding Canton, the Vorort, which manages common affairs while the general meeting is adjourned. We may cite also the Diet of the Rhine Confederation, composed by a college of kings and a college of princes. The American statute of 1781 provides a Congress and a committee of the associated lands. The States General and a Council administer the United Provinces.

(e) REASONS FOR CLASSING THE LEAGUE AS A  
CONFEDERATION.

Undoubtedly there are many similarities between the League of Geneva and the ancient Confederations. Everywhere we have found independent States, linked by a compact, not submitting to any common domination. Everywhere we have observed that the chief aim of association is common defence, the maintenance of internal peace, the adjustment of controversies by arbitration and conciliation, while other purposes might be combined with them. We

saw, further, that each of these bodies was gifted with an organ expressing its will, and it cannot be doubted that all these unions were founded, not to be transient figures, but with the idea of duration. Thus, taking everything into consideration, we become aware that the League combines all these characteristics which till recent times have been understood to make up a confederation. As a matter of fact, lawyers have generally adopted this classical definition which was given by Georg Jellinek, the celebrated master of Heidelberg:

‘Der Staatenbund,’ writes that scholar, ‘ist die dauernde, auf Vereinbarung beruhende Verbindung unabhängiger Staaten zum Zweck des Schutzes des Bundesgebietes nach aussen und innerer Friedensbewahrung zwischen den verbündeten Staaten, wozu auch die Verfolgung anderer Zwecke verabradet werden kann. Diese Verbindung bedarf einer dauernden Organisation zur Realisierung der Bundeszwecke. Durch die Merkmale der Dauer, der Allseitigkeit, des nicht bloß auf bestimmte casus foederis beschränkten Verteidigungsbundes, sowie durch die ständigen Organe hebt sich der Staatenbund über jede Form der Defensivallianz hinaus.’

(f) SOME DIFFERENCES.

Looking only at the similarities which exist between the new world-association and the antecedent bodies, we might be inclined to range the League of Nations in the traditional category of Confederations. But that conclusion would be too hastily drawn. Indeed, there are not only lines of resemblance; there are also weighty differences.

What chiefly distinguishes the League of Nations from other historical State connexions is the fact that the Covenant tends to realize a universal community, and consequently defines a policy which is adapted, not to an individualized

group of countries, but only to a world-embracing union. Ancient Confederations chiefly think of their own interests, and build ramparts not only to protect, but also to isolate their common life. There is in their nature antagonism towards foreign States. They unite in order to resist and to surpass. In a word, they have a limited and egoistical inspiration. The mind of the League of Nations is quite different. Its purpose is to obtain a better adjustment of conditions of life everywhere. The reforms it pursues are intended to bring more happiness among mankind. The ideal of the Covenant, greater humanity and the reign of peace, is for all nations uniting them in a large and common effort. So generous are these principles that they cannot even be understood as limited to the domain, though so vast, of the partner States. Thus Geneva endeavours to secure social and economic progress among all nations, and claims to extend its action in order to prevent war even among States which remain outside the League. In short, we can say that, whilst the previous State connexions, on account of their small frame and the political state of things from which they arose, had a limited idea of international co-operation, a spirit of absolute, unrestrained solidarity inspires the Covenant.

Nevertheless, the antagonism between the two types is not so great as it seems at first sight. Thus the German Confederation is not exclusively based on the care of German interests. It was created by the victorious Powers which desired to warrant *general* peace by stabilization of this land which had led to so many difficulties and such far-reaching struggles in past centuries. This motive appears in the preamble of the Statute. As for Switzerland, it is a well-known fact that its permanent neutrality and inviolability,

and consequently its independence of foreign influence, makes her a firm supporter of continental stability. The Congress of Vienna declared it and history demonstrates the truth of that thesis. We note also that in Switzerland the political co-existence of several ethnic groups is an impressive example for a happy solution of that fatal problem of nationalities which troubles our time. Finally, we may remember that the Netherlands, united by a heroic struggle for constitutional and religious independence, together with the Helvetic countries shaking off the Austrian rule, have raised up new ideals in the world and inspired great movements under the sign of liberty and justice.

iii. *Conclusion.*

Thus it appears that the activities of some of the earlier Confederations outstripped their original frame and have spiritual ties with the modern tendency to found a constitution for the world. And to mark that chain in the development of things, it would be suitable to uphold the term of Confederation for the League of Geneva itself.

Moreover, there is another reason for so doing. The latin *foederatio* implies the idea of *fides*. Festus explains the word *foedus*, saying: 'Quia in foedere interponatur fides.' Many treaties, indeed, invoke Jupiter Fidius. Now certainly good faith is the vital element of the League of Nations which by virtue of its immense size, the summary and unprecise character of its statute, and its lack of coercive power, depends wholly on the goodwill of its partners. In this the institution of Geneva may be compared with the British Commonwealth, which similarly finds the secret of its unity in a national faith. Mancini would call it

'il spirito vitale,' "l'unità morale de un pensiero commune."

## 14      *The League as a Confederation*

There is a religion of the British Commonwealth based on a glorious history and on the trust in great destinies. There is also a religion of the World-League; there is a spirit of Geneva, which is a belief in humanity and justice leading mankind forward to better times.

## CHAPTER II

# PUBLIC OPINION AND THE WORLD COMMUNITY

Mr. PAUL SCOTT MOWRER:

### i. *Why We Think as We Do.*

I HAVE been asked to speak to you about 'Public Opinion and the World Community'.

What is public opinion? There is no great perplexity here. It is simply what all of us think—those of us who do think—about current affairs. The interesting question is not so much what public opinion is, as how it becomes what it is—why we think as we do. And this is much more complicated.

In the first place, we are all more or less under the influence—as, I think, Mr. Freud would agree—of prejudices and opinions which were impressed on us in very early childhood—at home, by members of our family. We are taught more or less unconsciously to hate or distrust or despise the Jews or the Irish or the French or the Russians or the Japanese, and it often takes us years of experience before we are able to overcome the animosities thus early sown, before we are able to perceive their inherent baseness, or baselessness. In the main, we are republican or democrat, liberal or conservative, even now, because our father was, and we take over, ready made, almost without question, an entire political theory.

And then we go to school. And at school we learn that our country, with its nobly unique institutions, is pre-eminent among the nations. The others are struggling

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along as best they can—some better, some worse; and are prospering, in the main, exactly to the extent that they take their cue from us, that they follow the paths of liberty and progress which we have opened for them.

And then we begin to grow up. We begin to see the meaning of certain words and theories which theretofore we have been using blindly. We begin to talk to others and to listen to talk, about public matters, at home and abroad. We exchange impressions, clash theories, confront prejudices, with other young men and women. Our views are rounded out in some respects, indented in others, tempered and strengthened.

And for those of us who begin to be especially interested, for any reason, in one or more phases of our great group society, there are lectures, there are books. We listen to eminent speakers. We fall under the influence of some dominant personality, or some charm of oratory. The lecturers may not agree. Some take one side, some another. And the books may differ too; some presenting this thesis, some that. But out of the contradictory welter, falling back, if need be, on the great simple 'truths' we learned in infancy, at home, our frame of social mind, our more or less permanent theoretical outlook on politics, economics, and sociology, is formed.

### ii. *Difficulty of Obtaining Facts on which to Base Our Opinions.*

But theory is not everything. There must also be facts. No matter how excellent your background and theory, no matter how direct and trenchant your logic, no matter how great your skill in separating the essential from the un-

essential and striking hard to the point, if you have not the facts, your thinking is bound to go askew.

And this is where the newspapers come in. We can learn the facts of the past—more or less—from books. We can learn a few present facts from personal experience and observation, a few more by conversation. But by far the greater number of the facts on which we must base our conclusions as to what is actually going on in the world to-day, and as to what should be done about it, are supplied us by the daily newspapers.

Certainly it would be better if we could find out things for ourselves, instead of having to depend on some more or less anonymous, more or less uncontrolled, outside agency. But the modern world is so tremendously complex that even a person free to give his whole time to the quest is likely to be completely baffled. We may travel, we may study, we may talk to people having similar interests, we may consult authorities like the local clergyman, the university professor, and, above all nowadays, the local banker: it is never enough. For most of our current information we are fatally and inevitably dependent on the newspapers, which—theoretically at least—are organized, and exist, principally for the precise purpose of presenting for us the outstanding events of the day—local, national, and international.

The reliability and the adequacy of the facts our newspapers supply us with are therefore a matter of very great moment. Remember: if our facts are unsound or inadequate, our conclusions, no matter how carefully thought out, must also be unsound. So we may well inquire: do the newspapers really give us the kind and quantity of significant facts, clearly presented and well arranged, which are necessary to the formation of public opinion?



iii. *The Newspapers.*

I will say at once that I believe that the members of the newspaper profession, everywhere, within the limits of their several capacities and of the restrictions sometimes imposed on them, are constantly trying to give us such facts. But their task is increasingly hard.

There is, to begin with, the difficulty of getting at the facts. Most newspapers will give you every day quite accurately the weather bulletin and the closing quotation on Royal Dutch or United States Steel. And these may be important facts, and all the papers are likely to be in agreement on them. But as soon as you enter the more complex phases of local, national, and international political or economic life, the complication becomes literally immense. Always there are some people who want to keep you from learning any facts at all, others who want you to have only a part of the facts, and still others who, finding that you have found out the truth, will carefully deny it or attempt to distort it.

Take the recent German economic and political crisis. Ask an intelligent German: he will tell you it is all due to the dreadful Versailles Treaty, which is an iniquity and will continue to turn the world upside down until it is changed in Germany's favour. Ask a well-informed Frenchman: he will tell you it is all due to Germany's deliberate attempts to sabotage the new European order so as to prove that it is unworkable and that it must be changed. Ask neutral travellers: one man will tell you that there are five million unemployed and that the distress is appalling. Another will say he motored right across the country and saw no distress anywhere, but only comfortable, well-clad people,

and that Germany certainly is a fine place to take a holiday in.

Now I know you will want to ask me, in these circumstances, how it is that the newspapers can even pretend to give the real facts. I can speak only for one paper, and what we do is this: we put a man in Germany, and tell him to stay there, and learn the language and the people and the facts of German life. Thus, when the crisis comes, supposing he has been there a few years, he already knows nine-tenths of the situation. A few links have to be filled in, and filled in quickly. But the newspaper man, by this time, has formed personal relations. He knows certain men, in various political parties and various organizations, who are his friends and who will speak to him as a friend. He goes, then, to these, and through his personal relations is quickly able, in most cases, to fill in the links, so that the chain is complete. There may be other methods, but this is one, and it has given results. So that we may conclude that while the task of getting at the truth of situations is undoubtedly difficult, it is not impossible.

But once the truth has been found out, it has yet to be published. In all important political and financial affairs there are great and powerful interests which consider that they have an interest that the real facts shall not be told. Having failed to thwart the man who writes the news, they will go to the owner of the paper, and use their influence with him in order that the news shall either not be printed, or shall be printed only in a form they consider favourable.

And finally, and above all, there is the indifference and prejudice of a large part of the public itself. Experience shows that there are a surprisingly large number of adults

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in the world who do not want to be told the truth, if it is unpleasant or if it bears testimony against some cherished conviction. And there are vast numbers who quite frankly are simply not interested in political, social, and economic facts at all. Not a few newspapers, therefore, have chosen the easier way. They have reduced the significant facts in their columns to a strict minimum, and have filled up the paper, day by day, with amusing or startling anecdotes about marriages, divorces, crimes, and human or natural oddities. Such 'news' may be entertaining, but it is hardly a solid foundation for the formation of an enlightened public opinion. The people are free to choose. Compare the statistics on circulation of the papers which make a thoroughgoing effort to give the public serious, important news, and of the papers which make no such effort. The figures in the one case run into the thousands, in the other into millions. Is it any wonder that some editors shrink from the material and moral effort required for serious reporting of the significant phases of day-to-day events?

How, then, are we to proceed in order to encourage well-disposed newspapers, with intelligent editors, to give us the kind of facts we need? The first necessity, I suppose, is a sufficiency of trained and highly specialized newspapermen. The day has passed when it could properly be expected of a reporter to cover a fire at nine o'clock, interview a visiting physicist at 10.30, and whack out an article on the local real estate situation at 12. The tendency toward specialization in newspaper offices is already strong. The force of the complexity of events is such that this tendency, I take it, is bound to develop, provided always that the public shows sufficient discrimination to prefer the specialists on foreign affairs, local politics, sporting events, and

popular science, to the mere hack writer and improvisation artist.

But in order that there shall be these trained and adequately remunerated specialists, it is necessary that there be rich, independent newspapers. If a newspaper is not making money, it cannot possibly afford to hire good men and pay the expense of sending them out in the town, the country, and the world, to make objective, independent investigations. And if a newspaper is not itself rich, it is under a continuous temptation to succumb, on one pretext or another, to the pressure which powerful interests are continually trying to impose on it. A few rich, independent newspapers therefore appear to be in the public interest.

But, also, it seems a good thing that there should be papers which are frankly political and represent the views of the various party groups. Parties in power, and their papers, are always able to make it clear that, all things considered, everything might be much worse, and that on the whole things are as good or better than could be expected. Parties out of power, in opposition, are equally sure that, all things considered, things are about as bad as possible, and they are eager to tell you why. Parties in power are not, usually, eager to have the facts investigated and published. Parties out of power can be depended upon, however, to help you seek out at least the unpleasant facts. The views of both sides are of course to be discounted, but the value of opposition papers is well-known to all serious investigators, and it is certainly in the interest of the public that both sides should be continuously presented in this way.

And then, again, there must not be too few newspapers. The tendency everywhere just now, in the newspaper as in all other business, is toward concentration. But the fewer

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newspapers there are, the easier does it appear, and the greater is the temptation, for powerful interests to seek to control them. And, on the contrary, a multiplicity of newspapers seems to make such occult control more difficult. Trained specialists, rich, independent newspapers, party newspapers, and plenty of newspapers—these, then, are what we seem to need for the formation of a sound public opinion, set squarely on significant facts, clearly presented.

There remains the problem of popular indifference to so-called serious news. I have thought a good deal about this problem, and the only solution I can see is the long, arduous one of undertaking to educate people to a better understanding of how they personally are affected by significant social, economic, and political events—local, national, and international. For most of us, it is not easy to see beyond direct into indirect causation. The farmer, troubled by the falling price of wheat, tends to blame the railroad to which he hauls his wheat, and does not go very deeply into the question of foreign markets and world conditions. But in our day most of the phenomena which most directly influence our lives are complex and cannot be explained in any single formula, but have their roots and bear their fruits in many zones and climates. The task, therefore, of explaining to the citizen why he is in the plight in which he finds himself, and how far-off causes have contributed to produce this plight, and how the cure may also lie in an evolution of events far outside his own town or even his own country, is an exceedingly worthy one. All men are pretty much alive to their own self-interest, and once a man or woman is persuaded that he or she is directly affected by the kind of events called serious news, the more

likely is the demand for this kind of news to become more urgent.

iv. *The Time-lag in Public Opinion.*

So far we have been speaking entirely of public opinion. But there is a second phrase in the subject on which I have been asked to speak—‘the world community’. This is to me a very thrilling phrase. For the first time in all recorded history there is really to-day a world community. It is the privilege of our contemporary generations to be the first genuine world citizens. For the world community, in its present completeness, is something new. There have been international societies before—several of them—and international civilizations; some of them superb. But there has never before been a world-wide international society. How, then, has this come about?

You all know the answer. First, there are modern communications. In particular, railroads and freight steamers have transformed the economic conditions under which we live. In the past, foreign trade was mainly in luxuries and merchandise of small volume, for ships and coaches were small, and sea-ways and land-ways were beset with dangers. But of recent years, little by little there has developed an immense and world-wide exchange of very bulky goods—grain, metals, cotton, timber, rawstuffs, and foodstuffs of all sorts. I do not mean to imply such goods have never before been exchanged. I mean simply that they have never before been exchanged on anything like the present scale. And the result of this interchange has been to render the production and industries of all countries more or less interdependent. To finance this trade, credit has become increasingly international. And by means of the

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joint-stock company, wealth itself, which in the past has always been mainly in the form of land, has become international. The ownership of the biggest businesses in all leading countries is not even limited to the nationals of that country, but in the form of shares and bonds is distributed to holders in many countries.

And so we have, as I have said, for the first time in history a world community. Now what, let us ask, is the attitude of public opinion toward this new situation?

Those who have studied these matters assure us that in nearly every sphere of the social life the changing facts are well ahead of popular thought concerning them. In other words, there is a lag between the situation at any given time, and our thought about the situation. Our tendency is thus to reason about contemporary situations in terms of the situation as it was ten or twenty or even thirty years ago. And if this is so, as seems indeed to be the case, is it any wonder that public opinion in most countries, or even the thought of politicians and leaders, while dimly aware of the evolution of the world community, is still trying to deal with the intensely international world in which we live in terms of merely, or largely, national solutions? And is it any wonder, on the other hand, that such solutions fail?

There is no more urgent task to-day than that of bringing public opinion everywhere to a truer understanding of the extent and meaning of the international community. Time presses. We are faced by problems of an imposing complexity and a tremendous urgency. Without the sympathetic support of public opinion, our leaders are helpless. And until public opinion comprehends the international nature of our difficulties, it will never consent to the supposed

sacrifice, to the political novelty, of the necessary international solutions.

What is to be done? One way of overcoming the tragic lag in opinion seems to lie in supporting and encouraging the kind of newspapers which are sincerely trying to put the new and true and significant facts before the people. Another way, obviously, is in finding, in the curricula of schools, a nice balance between the national story and the international story, so that young people, as they grow up, will have a better understanding of that new and wider world we have wrought for ourselves. But perhaps the surest way of all is the way of personal contact—the way of informed conversation, of public speaking, of study groups and active minorities.

We must convince others that to be not only the loyal citizen of a great and powerful nation, but also a loyal citizen of our new world community, is no petty thing. To think in terms, not of the nation alone, but of an entire world, is not to maim ideas, not to restrict thought, but shape thought truer to the modern fact, and ennoble it by a wider, deeper humanity.



CHAPTER III

WORLD UNEMPLOYMENT AND ITS  
REDUCTION THROUGH INTERNATIONAL  
CO-OPERATION

Professor PAUL H. DOUGLAS:

**D**URING the last ten years, the majority of European countries have, in part, recognized their national responsibility for unemployment by the creation of national systems of public employment offices and by the adoption of either compulsory or subsidized unemployment insurance. Since we still lack these two essential features in the United States, it might seem somewhat more appropriate for Americans not to talk about international co-operation in reducing unemployment until we have first put our own national house in order. But while public employment offices and unemployment insurance are both vitally necessary, even their adoption, as the experience of Europe to-day demonstrates, will still leave a great part of the problem unsolved. It is to that portion of the problem, common to all industrial nations, which I should like to address myself.

*i. The Cumulative Break-down of Business.*

Phrased briefly, the question I should like to raise is this: can the nations of the world, either alone or co-operatively, materially reduce business depressions and their attendant unemployment?

For it is upon cyclical unemployment that national and world efforts need most to be centred. Seasonal unemploy-

ment can primarily be reduced only by the stabilizing efforts of individual businesses and industries themselves. Technological unemployment is, I am convinced, a greatly exaggerated phenomenon in which the immediately displaced workers are ultimately re-employed either at their old or at new occupations. This, of course, is not to deny that their transitional difficulties will tend to be severe, and particularly so if the services of insurance, re-education, and skilled public placement are denied to them.

Before we can, however, prescribe what banks and Governments should do in such times of stress as these, it is necessary to analyse how business in depression goes from bad to worse and why private industry seems powerless to improve the situation.

For the present, I shall not go into the vexed question of what are the initiatory causes of business depressions and shall content myself with but one remark, namely, that at least one of the immediate causes is the prior production and accumulation of a larger stock of consumers' goods than can be sold at the then existing price level, with the result that there must inevitably be an initial fall in prices. But aside from this, I must content myself with pointing out why the depression when once started moves cumulatively downhill, with prices and production falling and unemployment increasing.

The progress of a depression is, in fact, essentially similar to that of a forest fire. Once a fire of any magnitude starts, it heats the immediate atmosphere about it. The hot air immediately rises and cold air rushes in to fill the void. But all this necessarily creates a wind which fans the flames; this in turn generates more hot air while the hot air will create more wind and the wind more fire. And so the

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forest fire moves cumulatively onward. It is just so with business depressions and for a number of reasons:

(1) Once a fall in the prices of goods begins, profit margins shrink and businesses contract. This results from the fact that production takes time and goods produced at an earlier and higher price level must be sold at a later and lower price level. Thus, let us take an industry such as meat packing, where, in normal times, the profits on turnover are probably not more than 4 per cent. It normally follows, therefore, that for each outlay of \$1.00 on raw material, wages, interest, etc., the sales price of the product will be \$1.04. Now let us assume that the length of time required for these commodities to go through their production process is six months. For this period, rather than Mr. Ford's rate of generating iron-ore into automobiles in two days or the English stunt of clothing Mr. J. H. Thomas from the back of a sheep in four hours, seems to be somewhere near the average length of the productive process.

Now, suppose that the fall in price, however initiated, amounts to two-thirds of a per cent. a month—which is appreciably less than the average decrease during the last two years. Then the product in question would sell for 4 per cent. less than its price six months before, or for \$1.00. But one should note that this 4 per cent. fall in prices has meant a reduction of 100 per cent. in the margin of profits, and has, in fact, completely abolished them. Under such circumstances, business men will be reluctant to face this continuous fall in values during the process of manufacture. They will, in consequence, tend to hold back somewhat and to wait until prices have, in their opinion, touched bottom.

But this cutting down on the volume of their purchases

will mean as a corollary that they will need fewer men to work up the raw material. Some men will, in consequence, be laid off, and those who remain will, on the average, work fewer hours. The wage income of the workers will be diminished and they will be forced to curtail their purchases. Retail stores will therefore not be able to sell as much as previously, and will, in consequence, order less from wholesale establishments. Because of the existence of their prior stocks, they will, as a matter of fact, tend to decrease their purchases from wholesalers in a greater proportion than that by which their own sales have diminished. Wholesalers with falling sales will similarly reduce their orders from manufacturers. Because of the fact that they, too, have stocks upon which they can rely to meet the lessened flow of orders, their orders will also shrink by a greater degree than that by which their sales have been reduced.

But the lessened demand for manufactured goods will necessarily mean that the employers must lay off more men. Workers will therefore buy less from retail stores. These stores will buy still less from wholesale establishments, who will buy still less from factories. The factories will have to lay off still more men, with the result that purchasing power will be still further reduced and employment curtailed. Thus business rolls downhill with cumulative speed, reducing prices and production and destroying employment as it goes.

It will be noted from the above analysis that the process becomes progressively more severe as we move back from the retailers to the manufacturers of consumers' goods. This explains the observed fact that during a depression there is a much smaller decrease in the volume of retail trade than in the production of clothes, textiles, food products, and furniture.

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(2) A second characteristic of a business depression is that production falls off and unemployment increases by more in the case of industries producing capital goods such as steel and machinery than in industries producing consumers' goods. This is because the production of machinery and of capital goods is, as my former colleague, Professor J. M. Clark, pointed out fifteen years ago, a function not of the total product sold by the industries producing consumers' goods, but in large part of their *rate of growth*. Machines are, in fact, normally produced for two purposes: (a) to replace those which have worn out or become obsolete, and (b) to provide for an increase in output. Were this increase even to slacken, the total production of machines would tend to diminish. If the increase turned into a decrease, then the fall in the production of capital goods would be sharply magnified.

Thus in a second way a slight decrease at the end of the productive system will cause cumulative decreases in the earlier stages.

(3) The final cumulative force which helps to swing business downward is that, though production decreases, the general price level falls. Since the general price level is merely the ratio between the quantity of money and credit which is offered for goods and the quantity of the goods themselves, this fall in prices can only mean, therefore, that the quantity of money offered for goods diminishes at a faster rate than the volume of goods itself. 'Why', it may be asked, 'should this be so?' The needs and demands of business for credit might be expected to shrink *pari passu* with the reduction in the quantity of goods. But this by itself would merely leave the general price the same as before, and would totally fail to account for that greater

reduction in the circulating medium which we must seek to explain.

This greater decline can, in part, be accounted for by the fall in individual prices which we have discussed and which in itself would lessen the amount of credit needed to carry the goods through to completion. There seem, however, to be two further reasons for this greater rate of decline in the circulating medium: (a) As J. M. Keynes has pointed out in his brilliant *Treatise on Money*, the rate at which savings flow into banks at this period exceeds the rate at which businesses borrow from banks. The result is that a considerable proportion of the available purchasing power of a community is impounded and rendered immobile. It has been a common, and to many a somewhat puzzling, experience that savings deposits have been increasing in virtually every country during the period of the present depression. The reason for this is, however, surely quite obvious. Men with jobs are afraid they may not have them in the near future. They consequently feel that they must save more in order to have a nest-egg with which to support themselves if and when they become unemployed. This increase in savings is, of course, tantamount to a shrinkage in the money demand for consumers' goods and necessarily causes a fall in their prices. But this would not be really serious if these savings did in fact, as the economists of my generation were taught by their elders to believe, flow synchronously and majestically out into the hands of industrial borrowers who would use them to construct new railroads and factories. For monetary purchasing power was, we were told, like the Grace of God, indestructible. It could be transferred, but it could not be reduced by one jot or tittle.

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But in the cold world of fact we see that the increase of savings in banks has been accompanied by an actual decrease in investments by banks. Businesses are uncertain of the future, and, although the available capital is there, they do not wish to utilize it—at least at the rate of interest charged. The result is that the purchasing power of consumers is reduced without that of the entrepreneurial class being increased. A fall in prices and a diminution of profits necessarily result.

(b) The second factor is that during a depression we as the consumers hold our dollars longer in our pockets before we spend them and businesses maintain larger cash balances at banks. The former is, in part, a type of saving for a potential rainy day. It is also, in part, a waiting to purchase until prices shall fall a bit more and when consequently the purchasing power of a dollar will be higher. This last motive, it should be added, is also present in the great savings deposited in banks.

Businesses, moreover, generally carry larger balances in banks during times of depression than of prosperity, and hence the volume of bank credit turns over less rapidly. This is because they have fewer uses for their money and the cost of thus carrying credit is lower.<sup>1</sup>

For both of these reasons, therefore, money is less lively in its circulation—its pulse and tempo fall, and, in the jargon of the economist, its velocity diminishes. The result is that the same amount of money makes fewer appearances in the nation's trade than before, with the consequence that the price level falls. And this fall in the price level, as has

<sup>1</sup> These deposits, it should be remembered, are but the result of loans made by the banks to business.

been shown, starts still further cumulative break-downs in the system.

ii. *The Peculiar Aggravations of the Present Depression.*

Such is the degenerative rhythm of business during the depression phase. It is bad enough at all times, but the present situation has been intensified and prolonged by at least four other disturbing factors.

(1) The great fall in the prices of agricultural commodities and of certain basic raw materials. A great agricultural revolution has been engendered by the gasoline engine, which by giving birth to the tractor plough and the combine (reaper-thresher) has caused an enormous increase in the wheat acreage of Argentina, Canada, Australia, etc. The quantity of wheat has increased, but since the demand for it is highly inelastic, the price per bushel has fallen by much more than the relative increase in quantity, so that the total price received by the farmers has been very appreciably reduced. Two years ago, the price of a bushel of wheat on the Chicago market was \$1.20; to-day it is about 54 cents, or only 45 per cent. as much. The relative price to the farmer has diminished even more, having fallen from approximately \$1.00 to a little over 30 cents, or to approximately only a third of what it was.

Similar sharp decreases have occurred in the case of cotton, wool, corn, sugar, copper, tin, rubber, and many other basic commodities as well. The result is that the total effective purchasing power of whole areas such as the Mississippi Valley in the United States, Canada, Australia, Cuba, the Straits Settlements, etc., has been greatly diminished. The manufacturing regions of the world find, in consequence, that the market for their product has also diminished. This



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has spelt an increase in unemployment for the urban industries and a fall in their profits even though a gain for those who continue to be employed.

(2) A second disturbing influence has been the fall in the price of silver. During the last few years, the British Government, through its control over India, has steadily cut down the supply of silver used by that country for monetary purposes and has dumped these amounts upon the world's bullion market. The result has been a great fall in the commercial price of silver, and hence in its ratio to gold—the price of the latter being fixed even though its value fluctuates.

Since China is on a silver basis, this has meant that China is forced to pay more of its own silver money than before for all the goods which it imports. Since its own price level has not increased commensurately with the depreciation of silver, it has followed that China cannot buy as much from abroad as before, and unemployment in Lancashire has, in consequence, increased.

Nor is the situation without its amusing features where one sees large groups of Englishmen complaining to the *London Times* of how the world has somehow done them wrong by letting the price of silver fall without any apparent recognition on the part of these amiable gentlemen that it has been their Government which in this respect has largely caused the mischief.

(3) A third factor which has made matters much worse has been the successive increases in our post-war world of tariffs. Industries, such as English textiles, which formerly sold a large portion of their product outside of their borders now find through the rise of economic nationalism that these markets are largely shut off. Unemployment is the inevi

table result, as the experience of Austria abundantly illustrates, of this shrinkage in markets. In this mischief-making my own country has, unfortunately, played a mighty part. For by our protective tariff of 1922, and by the still higher duties imposed in 1930, we have made it even more difficult for Europe to meet our claims for payment by sending us goods. The European countries have therefore been forced to send us large quantities of gold, which have diminished their available bank reserves and decreased their power to avert or lessen the fall in prices through a greater creation of credit.

(4) A final source of difficulty during the present depression is the relative inflexibility of wage rates. The prices of manufactured goods have in general fallen appreciably, but wage rates have declined by only a small percentage.<sup>1</sup> Had the efficiency of labour increased in proportion to the disparity between these two rates of decrease, then the relative labour costs per unit would not have increased. There is much evidence to indicate that this increase in output per man-hour more than took place in the United States in 1921-2, and was a major factor in helping to restore prosperity in 1923. It is always difficult to tell what is happening at the moment in the world about one, but my own conclusion is that while there has been some increase in efficiency, it has not been sufficient to

<sup>1</sup> This relative inflexibility of wage rates has been caused, in part, by the strength of trade unionism; in part, so far as Europe is concerned, by the protection which unemployment insurance gives the worker against the employer who tries to nibble at the standard-rate; and so far as America is concerned by some acceptance of the theory originally advanced by the Socialists, Marx and Rodbertus, and now espoused by Henry Ford and President Hoover, that wages must be kept up if purchasing power is to be maintained.

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balance the great fall in prices, with the result that the percentage of labour costs in the total has risen. In many instances this has probably gone to a point where the margin of profit has been obliterated and where production has, in consequence, been curtailed or stopped by the entrepreneurs.

One of the most forbidding features of the present situation is, indeed, the fact that if prices either remain at their present level or continue to fall, and if efficiency does not increase proportionately, then the employers of the world will be led inevitably to cut wages on a wide scale, with the inevitable result of deep and extensive civil strife. And yet if things continue as they have been going, it is difficult to see what else the employers can do under the capitalistic system if it proves impossible to raise the present price level. For, under Capitalism, business in the large will not bestir itself unless it obtains a profit. A reduction in wages may therefore come to be a necessary step in order to start the wheels of capitalistic industry to turn once more. It should, however, be the last resort instead of the first.

Incidentally, it may be remarked that this reduction in money wages would, by lowering costs and stimulating demand, cause more workers to be employed even though the total wage to all labourers might be less. Profits would be higher, however, and further investments, in consequence, stimulated. The result would be an enhanced expansion of the capital-producing industries, and hence a further rise in the volume of employment.

#### iii. *Does the Economic Organism Heal Itself, and, if so, When?*

Such, then, is the disease which is still raging in Western capitalistic society, although communistic Russia, with

unemployment that has been reduced to negligible proportions, can look out upon the world with that ironic expression of self-satisfied superiority which, until recently, the citizens of Western Europe and adjacent isles have regarded as their own peculiar possession.

The uttered or concealed query which is in the minds of everyone is, of course, this: 'When, if ever, will the patient return to health and prosperity?'

The economists of the past and the bankers and business men of to-day are disposed to say, 'let the disease run its course and the fundamental health of the organism, upon which Lister so successfully relied in his discovery of anti-septic surgery, will ultimately bring the patient back to health'. These advocates point out:

(1) That, after a time, the stock of goods in possession of consumers becomes almost exhausted, and those on the shelves of retailers and in the warehouses of wholesalers greatly diminished. When consumers have to buy more clothing, furniture, etc., the result is that stores have to order more from wholesalers and factories. The latter have to hire more men who thus buy more goods, compelling the factories to hire more men who will then buy more goods, etc. The increased demand for consumers' goods will, in turn, cause a relatively magnified rate of increase in the demand for producers' goods.

And so business will move as cumulatively into a period of prosperity as it previously rushed down the Gadarene slope of depression.

(2) The second point which is confidently believed in by these spreaders of the glad tidings that all will come out right in the end is the supposed reduction of internal costs by business. This is presumed to come about from a

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number of forces, such as the prior laying off of the more inefficient workers, the increase in the output of those that remain, the diminished waste and the greater intensity of a management which is now less interested than it was in stock quotations and more interested in cost sheets.

(3) The low rates of interest on short-time loans, and, to some degree, on long-time investments, will encourage industry to borrow more from the banks and thus stimulate industry still further.

Now all those forces are real, and sooner or later will probably help to bring back prosperity. But it is worth while noting that stocks in the hands of manufacturers are still higher, that wage rates are comparatively quite high indeed, and that low interest rates all the world over<sup>1</sup> have not yet sufficed to induce business men to borrow in any large volume.

Nevertheless, it is quite possible that these forces may suffice to bring back good times within the compass of a year, and perchance in the United States enable the medicine men of the Republican Party to convince once more their credulous fellow-Americans that these soothsayers are, indeed, God's favoured ones who alone have the power to deal out plenty to His children.

But it is well to remember that at best such recuperative forces operate only after a long intervening period of depression, during which millions of honest men and women are unemployed and thousands starve. Last winter there were in the three great industrial nations of the world, Germany,

<sup>1</sup> Save in the case of Germany, where the bank-rate at the time of writing was 10 per cent. in order to check the possible 'flight of the mark'. Since then the German rate has been decreased to 8 per cent., while through a chain of unfortunate circumstances the English rate has been increased to 6 per cent.

England, and the United States, 10,000,000 of unemployed workers. At the present moment there are not less than 13,000,000 unemployed, while all signs point to a further increase to somewhere around 15,000,000 this winter.

If mankind must go through such great periodical stresses, if men must starve because there is 'too much' food, go naked because there is 'too much' clothing, and sleep in the parks because there is 'too much' housing, then the masses of sensible men and women will create a new economic system whose governing principle will be something other than that of comparative margins of private profit. In short, if Capitalism does not reduce unemployment, mankind, which is fast weaning itself from feudally engendered patience, will abolish Capitalism and replace it with a less clumsy and a more perfectly co-ordinated economic system.

#### *iv. Can We Help Ourselves, and How?*

Can the business depression be greatly reduced and the process of recovery speeded up? I believe that, under proper management, it can, but primarily only by the intervention of forces outside the profit system itself.

For what is fundamentally the trouble in a period of depression is such a cumulative deficiency of monetary purchasing power as to make it impossible to purchase the goods produced at a profit to their producers. If the banks could only get business to borrow much more from them during such depression periods, then this additional purchasing power when applied to industry could set the unemployed to work.

The potential credit is most certainly there, both because of (a) the excess of savings over investment, and of (b) the power of the banks to create credit.

Irrespective of what the late Mr. Walter Leaf and others

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may have argued, the ability of the bank as a whole to create credit is real. This the experience of banking from the times of the Lombard, Genoese, and Venetian bankers abundantly demonstrates. Given a certain quantity of gold or legal tender in their vaults, then the banks as a group can create checking accounts (or, as in some countries, issue notes) to a value several times that of the legal tender into which they are supposedly all convertible.

What, then, prevents business from tapping these abundant streams of potential credit? Certainly it is not the interest rates on short-time loans, for these have fallen to  $1\frac{1}{2}$  per cent. in New York, 2 per cent. in Paris and Amsterdam, whilst not so long ago the rate was  $2\frac{1}{2}$  per cent. in London. But, despite these tempting offers of loans, businesses do not want to borrow because they fear that if they do the continued shrinkage of monetary values during the period of the productive process will abolish profit and create losses.

If this analysis is correct, therefore, what is needed is the injection or, if one may so term it, the pumping into industry of additional monetary purchasing power sufficient at least to arrest the fall in prices and preferably to increase the price level somewhat. By thus building up a larger consumers' demand business could produce more goods at a profit and thus give employment to more men, with the cumulative effects which should by now be familiar to us all.

Now if we were a world State, or if we were dealing with a nationally closed economy, there would be at least three ways in which this additional monetary purchasing power could be created and put to work.

(1) By paying unemployment benefits, during periods of depression, not primarily out of contributions from workers and employers which correspondingly decrease their expenditures, but, instead, either out of the proceeds of Govern-

mental borrowing or by the issue of money. It is a common charge against the German and English systems of unemployment insurance that they are not self-supporting, and have had to be eked out by Governmental subsidies. But this alleged demerit has, in fact, been largely a social benefit. For it has meant that these Governments have been able to get the banks to create a goodly portion of this additional purchasing power. These sums distributed amongst the unemployed workers have enabled them to buy more than they would otherwise, and hence have kept in employment other workers who, but for this, would have been turned out of their jobs and forced to walk the streets.

(2) A second way of pumping this additional purchasing power into circulation during these periods of depression would be for the Governments to remit part or all of their income from taxation and meet their expenditures either by borrowing or issuing money. This would give to the citizens more money to spend, and hence would increase the demand for goods and exert a stabilizing influence upon prices, production, and employment. If we were dealing with either a world State or a closed economy, there would therefore be no necessary reason for Governments to balance their budgets every year. It would, indeed, be good, sound policy for them not to do so in such periods as the present. It is of course wise for governmental budgets to be balanced over the period of the business cycle as a whole, but there is no necessity for them to be balanced during each and every year. It is instead wise for national Governments, at least, not to do so during the years of depression.

There was therefore deep wisdom in the apparently whimsical advice which our distinguished chairman, Professor Ohlin, is reported to have given at Stockholm last year,



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namely, that all the Finance Ministers of the world should simultaneously arrange for loans and then take a vacation!

(3) A third method would be for Governments to launch additional works during this period and meet the added expense from the two familiar expedients of either borrowing or issuing money. This proposal has been well known since it was first popularized in recent times by Professor A. L. Bowley in the testimony which he gave before the Royal Commission on the Poor Laws. It is ordinarily conceived of as applying primarily to roads and public buildings, but its true possibilities seem to me to be much more extensive.

One of the festering sores of our civilization is the existence of great slum areas in our industrial cities. This is not only true of London, Birmingham, Manchester, and Glasgow, but perhaps to an even greater extent of New York, Philadelphia, and Chicago. The great building boom of the last few years in the United States has been in the construction of high-priced apartment houses and of suburban developments on the outskirts of cities. There has therefore been a resultant draining off of population from the slums of the east side of New York, the west side of Chicago and North, South, East, and West Philadelphia.

But the old buildings in these slum areas still exist and still house, perhaps, the major portion of the unskilled labourers. These men and their families cannot in fact afford to live elsewhere, both because of the expense and the time which would be required to travel to and from their work. These buildings are already old, and, during the last fifteen years, have greatly deteriorated. Since the incomes of the landlords have fallen, they have felt unable to keep up adequate repairs. The result has been a steady rotting deterioration. And it is just these areas, as my

colleague, Mr. Clifford Shaw, has shown, which have the highest percentage of juvenile delinquency and crime.<sup>1</sup> They are truly breeders of ill-health, warped family life and of both petty and vicious crime.

Real estate dealers themselves do not dare to construct new houses and tenements in these regions for two reasons: (a) the unskilled, whose average yearly earnings in the United States cannot greatly (if at all) exceed \$1,000 a year, cannot afford to pay for decent housing from their earnings; and (b) the blight of these areas is so great that a few new houses, or a small developed region within these rotting centres, would not be able to attract tenants who would pay.

What, therefore, I should like to propose is a gigantic programme of slum clearance, financed jointly by cities and national Governments, which would tear out these slums during periods of unemployment and create decent housing for the low-paid workers. The great achievements of Vienna in providing municipal housing should teach us how, with adaptations to the housing tastes of other peoples, we can give to the poorest workers healthy living conditions, together with the amenities of life and the pooled advantages of collective living.

In the main these houses would be constructed by labour which would otherwise be unemployed and with materials which otherwise would largely be unutilized. There would thus be a relatively costless creation, from society's point of view, of social capital which is, perhaps, more badly needed than anything else in England or the United States.

It will be noticed that, in suggesting either bonds or money to meet existing expenses or new outlays, I have not

<sup>1</sup> See his *Delinquency Areas*. University of Chicago Press.

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as yet chosen between them. If money is created, the Government gets the added purchasing power, while, if the banks create the credit, they own it, and not only demand its ultimate repayment, but also, very naturally, interest for its use as well. If the Central Banks are owned by the States, there is, of course, no more ultimate difference than between the right and left hands. Under such conditions, I would favour the issuance of bonds, since the accounts of the enterprise are then likely to be more distinct.

But if the banking system, as in the United States, is primarily in private hands, I would prefer the issuance of money. For then no interest need be paid by society, and while a part of the issue might have to be subsequently retired in order to check any future increases in prices above the 1928 level, probably not all of it would have to be. To the extent that it was not, the unskilled could therefore be housed without cost to themselves or to the Government out of human effort which otherwise would go to waste.

### *v. Can this be Done under the International Gold Standard?*

But at this moment I know that my hearers are bursting with the desire to recall me from what Aristophanes in company with them would call 'cloud-cuckoo land' to what they regard as solid earth.

This attitude may, in part, be due to the almost superstitious veneration which the generations have been taught by the banking fraternity to have for gold itself. Into the peculiar emotional reasons for this symbolism I do not have time to go, save to refer you to the writings of Dr. Sigmund Freud and his school.

But it is, of course, obvious that the situation in the world,

as it is, is not quite as simple as that which I have sketched for my closed economy. For the world, so little international in everything else, has adopted in the main one common money, namely gold. It is therefore an economic truism, as economists from Ricardo to Cassel have pointed out, that commodities which enter into international trade tend, aside from inertia, transportation costs, and tariffs, to an approximate price equality the world over.

This means that if one country during a period of depression adopts such a policy as I have just advocated, and either stabilizes its price level or causes it to rise slightly while that of the rest of the world continues to decline, then two consequences, both having the same result, will inevitably tend to follow: (a) There will be an increase of imports into the country in question because of its higher prices and a decrease of its exports because of its higher costs. (b) Since money will have a higher purchasing power in other countries because of their lower prices, there will therefore be a speculative selling of the currency in question into foreign moneys.

The result will be the same in both cases—namely, an increase in the indebtedness of the pioneering country to the rest of the world and a consequent export of gold to settle the balance. This will bring the price level of the advanced country to that of the rest of the world and will create the unemployment which the policy suggested sought to avoid.

Thus the effect of gold as an international standard is limited by the average degree of intelligence among the nations. If it checks the gross inflationist policies of certain countries and temperaments and keeps them up to its level because of the fact that its supply is more limited than that of man's potential foolishness, it also checks such thoroughly

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sound methods of stabilization as I have proposed. In brief, it levels down as well as up.

Is there, then, no hope, and are we doomed, by our very clumsy monetary system of gold, to endure business depressions for a continuing span of years? If we are, then it may well be that the future Parliament of the World will convene in Moscow rather than Geneva.

There are, however, to my mind several possibilities which, if rightly seized, may still make it possible to adopt some such policy as I have suggested:

(1) A nation, such as the United States, with great gold reserves might adopt such a policy without appreciable risk. We now hold approximately 40 per cent. of the world's gold, much of which has been sterilized by the Federal Reserve Banks to prevent it from affecting the price level. We could lose a large quantity, therefore, without necessitating any real fall in our price level.<sup>1</sup> The programme I have suggested would therefore probably be practicable in the United States as it stands. Incidentally, such a programme would result in releasing part of our gold for Europe—which, if I may speak somewhat facetiously, if one may judge from the swarms of idealistic lecturers from your countries who descend upon our shores to scold us for our material-mindedness, would not probably be looked upon with disfavour by Europe. Nor in this case should I, for it might well serve to stimulate trade here in Europe and put more heart into the bankers and business men of this continent to resume production.

(2) The situation would, of course, be greatly eased if a number of important Governments would collectively agree on such a policy and loyally carry it out. For if the countries

<sup>1</sup> Since this paper was written, the amount of 'free' gold in the United States has decreased.

move in step with each other no one country need be exposed to a drain on its gold supply. Whether these conferences will, in future, be held here in Geneva, or in Zurich under the auspices of the Socialist International or at points still further east, I am, of course, unable to say, and only swift-flowing time can tell.

(3) Finally, if international co-operation along such lines proves impossible, and if a nation is not strong enough both to adopt such a policy and remain on the Gold Standard, then a country can still stabilize or increase its own price level and go off the Gold Standard. It will then substitute fluctuating and probably depreciating exchanges for declining internal price levels, but in the sum total of advantages and disadvantages one may, in perhaps the majority of instances, find that the nations would benefit more than they would lose.<sup>1</sup>

To many of you, brought up to worship at the shrine of Gold, such proposals as I have made must seem fantastic, and perhaps sacrilegious. And yet in advancing them I am supported by such a crowd of witnesses from the intellectual *élite* of the last century that it is not within my poor power to add or to detract. But out of the past I summon the magestral Ricardo, who, at the conclusion of the Napoleonic Wars, when Europe suffered from prolonged business depression and unemployment, proposed that nations should adopt managed currencies rather than the Gold Standard. And to call but another witness, I summon also the shades of Malthus from the quiet retreats of Haileybury, who once

<sup>1</sup> Into the specific question as to whether Great Britain would in the present situation be better off with an internally managed currency than with the Gold Standard, I, as an American, do not for the present wish to go.

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frightened the world with the spectacle of the devouring ogre of population, but who also, at the conclusion of the Napoleonic Wars, advocated a gigantic programme of public works very similar in nature to that which I have advocated. And in all countries, at this present time, the foremost thinkers on the subject of money are turning in the same direction, of whom I have only time to mention Keynes and Henderson in England, Foster and Catchings in the United States, and here in Geneva itself Messrs. Abbatti and P. W. Martin.

Finally, I should, of course, make it clear that I am not proposing a policy of inflation, but, rather, one of stabilization through price control and a managed system of currency and credit. The additional money issued during periods of depression should be retired, to the extent necessary, during succeeding periods of prosperity in order to help check the increase in prices. The whole programme is therefore contingent upon the assumption that those who govern the monetary and banking policies of the nations will be willing and able to control the amount of fresh monetary purchasing power which is created and to limit it to the amounts necessary to avert social strife and to reduce cyclical unemployment to a minimum.

If, however, the managers should turn out to be the managed, and if they were to permit such an inflation of prices as would cause them to rise appreciably above their 1928 level and to re-enact, if to a smaller degree, all the evil consequences of the German and Austrian inflations, then it would probably be safer for the world to stick to the Gold Standard. In short, the issue is whether the intelligence of the world is sufficient to permit it to manage its monetary problems wisely.

vi. *Two Final Warnings.*

And now the time has come for me to close, but I must at least mention two further monetary dangers which confront us:

(1) As the Macmillan Committee in Great Britain pointed out, it will not be enough merely to prevent prices from falling further and to stabilize them at their present level. For this would still leave them from 25 to 30 per cent. below their 1928 scale. There would consequently be not only great struggles everywhere between capital and labour as the former sought to reduce wage rates, but the active portion of all populations would be shouldered with the crushing burden of the increased liability of debts. Thus in the United States the fall of one-third in wholesale prices has increased the former total of 170 billions of public and private indebtedness by no less than 85 billions of dollars of 1928 purchasing power. Once before, in the quarter century which stretched from 1873 to 1896, the rentier class as represented by the investors and bankers of England and the Eastern United States held the world in thrall through the fall in prices and the consequent appreciation of their claims. But the world, grown more intelligent, will not now consent to such an elevation of the rentier class. If prices do not rise, as I personally do not expect them to, then it is almost certain that Germany will refuse to pay more under the Young than under the Dawes Plan, and, if the terms are not moderated, will pit herself against France. Europe will range itself against the United States, and within every country debtors, farmers, and business men will be arrayed against investors. Considerations of expediency, therefore, as well as justice, call for the restoration of the 1928 price level and then for subsequent stabilization.



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(2) A second problem in my opinion will arise if, as seems probable, the rate of production of gold and the consequent addition to the monetary stock of the world progresses less rapidly than increase in the production of goods. For there will then be the slow secular fall in the price level, with the result that (as from 1873 to 1896) the periods of depression will be longer and the periods of prosperity shorter. To check this we may need to adopt such measures as (a) a slow and progressive lowering through international action of the reserve ratios of the various banking systems so as to permit more credit to be created from a given gold base and thus enable a greater expansion in the creation of credit to compensate for the diminution of the rate of increase of gold.

(b) The building up at Basle of an international gold fund, fed by deposits from the various States and which would settle international balances by changing the ownership though not the location of gold. Economies could also be introduced in this connexion in the use of gold by permitting note issue and credit expansion by the member countries on the basis of the gold credited to them.

In such ways as these, and by others as well, the monetary circulation of the world could be kept in tune with production and the fall in prices prevented.

But whether the fierce national jealousies of the world will permit such a pooling of resources and such a common policy is of course doubtful, and the issue will depend upon the intelligence as well as upon the goodwill of groups in all countries such as those assembled here to-day.

CHAPTER IV  
THE FIRST GENERAL DISARMAMENT  
CONFERENCE

M HENRI ROLIN:

I FEEL sure everybody will agree that of all subjects this, of the First General Disarmament Conference, is the most urgent.

I must add that I am an official but, as I never sat in the Committees which dealt with disarmament questions, and was always in the Legal Committee, I consider that I am perfectly free to express my own private opinions without in the least committing the Belgian Government by what I may say.

*i. The Importance of the Conference.*

The First General Conference on Disarmament will meet on February 2nd, and I quite agree with a double statement which was made recently by Lord Cecil, firstly, that we are not sure that the Conference will succeed, and, secondly, that if it does not succeed it will be a most fatal blow to the League and a very great danger for the peace of the world.

There are two reasons for this. The first is that the Covenant has imposed as the most urgent duty which the League has to carry out the adoption of plans for a general reduction of armaments. If after eleven years a first result is not obtained, it will be regarded as a very important failure by world public opinion.

The second reason, which is, perhaps, still graver, is that

the first steps towards disarmament have been taken outside the League. The Peace Treaties have imposed on certain States measures of disarmament as foundation stones for the general building. On a great many occasions we have definitely declared to Germany, Austria, Hungary, and Bulgaria that we felt morally and legally bound to adopt general measures of disarmament. Six years ago we also declared that we recognized that their own obligations had been fulfilled. If after such a long time we do not succeed in bringing into force a general convention, there are the greatest chances that most of these States will declare, perhaps not that their obligations are void, but at least that they are suspended and that we have no right to ask for the carrying out of those obligations. You will understand how that situation would cause anxiety for the peace in a great many countries.

In those circumstances, it is the first duty of every supporter of the League and every friend of peace to help as much as possible towards the success of the Conference; and more is necessary than pious wishes.

There is, perhaps, no subject in international politics on which public opinion in the various countries is so different and on which misunderstanding is so widespread. To whatever country we belong we must make a great effort not only to understand what are our national interests, but also what is right in the attitude of other countries and what is wrong in that of our own country. We must try to bring our own opinions as friends of peace nearer in order that we may have a common platform for public opinion in all countries. We tried to do this, and were successful, at the International Federation of League of Nations Societies' Conference at Budapest.

The three main points with which I will deal are (1) Why we must succeed; (2) How far we shall have to disarm; and (3) In what way.

With regard to the first question, I have already mentioned the legal obligations. But one might ask why the authors of the Covenant raised such a difficult problem. One might think that the idea of a general reduction of armaments is so opposed to the ideas, opinions, and habits of the States before the war that it would have been much wiser to leave the problem for some hundred years, or at least until the League was stronger.

ii. *The Necessity for Disarmament: (a) the Problem before 1914.*

The first answer to this is that the question is not new. For more than two hundred years the need for a general limitation of armaments has been recognized as one of the most essential conditions of peace.

As early as 1710, a Quaker disciple of William Penn—John Bellers—wrote a book in which he tried to draw up a scheme for a federation of States, and in which he said there was the greatest necessity for limiting the number of troops and ships, without which peace would be nothing more than a truce.

In the same century, Bentham insisted also on the necessity of a limitation of armed forces as one of the main conditions of peace.

Among the publicists, Charles Sumner, a very well-known American Senator, wrote a pamphlet in 1849 which had the very significant title of *The War System of the Commonwealth of Nations*.

In 1870, Richard Cobden, the great economist, wrote a

pamphlet entitled *The Three Panics*, in which he showed that the three great increases of the British fleet were the result of panics caused by the Press in a more or less artificial way. He was supported in his campaign by Sir Robert Peel, and also by Professor Lorimer, one of the greatest English lawyers.

Statesmen have also from time to time come to the same conclusion that the state of anarchy in which the different nations were one with another with regard to the needs of national defence necessarily led to the catastrophe which they tried to prevent.

After the Napoleonic Wars, the Czar of Russia, Alexander I, wrote a famous letter to Lord Castlereagh on the 21 March, 1816, in which he asked for a limitation of armaments in Europe. Lord Castlereagh agreed and proposed a Committee of Experts. I need not add that even the constitution of the Committee proved to be too great a difficulty.

Fifteen years later, Louis Philippe, the King of France, proposed that a conference should meet. The Conference met and the ambassadors of the great States solemnly declared the necessity of coming to a general agreement with regard to disarmament, but nothing further was done.

In 1863, Napoleon III again commenced diplomatic correspondence with the same purpose in view.

Twenty years later, Pope Leo XIII wrote on the growing danger to Europe of the increase of armaments; and in 1888, the Czar of Russia sent to the Governments his famous message regarding the first peace conference at The Hague, of which he said the first duty was that of coming to an agreement with regard to disarmament.

Nothing is so impressive as to read the statement of the

Russian Government, according to which the enormous charges which since 1871 had resulted from the state of armed peace 'were of such a nature as to undermine and paralyse public prosperity, and that their ever-increasing progress upwards would produce a crushing burden for the peoples which they would carry with greater and greater difficulty'. It expressed the conviction that if no remedy was found for that situation 'it would lead to the very cataclysm which the armaments intended to prevent and the horrors of which made every thinking man shudder in advance'.

The Conference met and the Russian propositions encountered almost general scepticism. One of the first to oppose those proposals was Colonel Gross von Schwarzhoff, of Germany, and the military experts of the States whose finances seem actually to be most sound, and who therefore affect some detachment towards disarmament, should read what that eminent officer then said in his blind pride. Replying to the Russian delegate, he said:

'I can hardly believe that among my honoured colleagues there is a single one ready to state that his Sovereign, his Government, is engaged in working for the inevitable ruin, the slow but sure annihilation of his country. I have no mandate to speak for my honoured colleagues, but so far as Germany is concerned, I am able to completely reassure her friends and to relieve all well-meant anxiety. The German people is not crushed under the weight of charges and taxes—it is not hanging on the brink of an abyss; it is not approaching exhaustion and ruin. Quite the contrary; public and private wealth is increasing, the general welfare and standard of life is being raised from one year to another. So far as compulsory military service is concerned, which is so closely connected with these questions, the German does not regard this as a heavy burden, but as a sacred and

patriotic duty to which he owes his country's existence, its prosperity, and its future.'

We know what that future has been. History has its tragedy. In 1919 the German Prime Minister, Graf Brockdorff-Rantzau, had the courage to confess in the Reichstag that Germany had failed to realize at the time of the Peace Conferences at The Hague what were the exact relations between might and right, and that her actual misery was for a great part the consequence of her attitude at The Hague with regard to a reduction of armaments.

Lastly, I will quote what Lord Grey has written in his memoirs in support of that view. After having examined with great sincerity and objectivity the causes of war, and having discussed also what is generally called the responsibility of Germany, he says:

'The moral is obvious; it is that great armaments lead inevitably to war. If there are armaments on one side, there must be armaments on other sides. While one nation arms, other nations cannot tempt it to aggression by remaining defenceless. Armaments must have equipment; armies cannot be of use without strategic railways. Each measure taken by one nation is noted, and leads to counter-measures by others.

'The increase of armaments that is intended in each nation to produce consciousness of strength, and a sense of security, does not produce these effects. On the contrary, it produces a consciousness of the strength of other nations and a sense of fear. Fear begets suspicion and distrust and evil imaginings of all sorts, till each Government feels it would be criminal and a betrayal of its own country not to take every precaution, while every Government regards every precaution of every other Government as evidence of hostile intent. . . .<sup>1</sup>

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<sup>1</sup> (Here follows an account of the diplomatic negotiations between Lord Grey and the Germans for the prevention of war in 1914.)

‘But, although all this be true, it is not in my opinion the real and final account of the origin of the Great War. *The enormous growth of armaments in Europe, the sense of insecurity and fear caused by them—it was these that made war inevitable.* This, it seems to me, is the truest reading of history, and the lesson that the present should be learning from the past in the interests of future peace, the warning to be handed on to those who come after us.’

ii. *The Necessity for Disarmament: (b) the Peace Treaties and the League.*

Does one wonder, therefore, that President Wilson included in his Fourteen Points the necessity of coming to an agreement with regard to a general reduction of armaments? And from the very first day the drafts of the Covenant provided for some machinery of general limitation.

No doubt may be felt as to the meaning of the measures taken in that respect towards Germany and her Allies. When the German delegation at Versailles expressed its surprise that the only definite provisions in the Treaty with regard to disarmament were the provisions affecting Germany, M. Clemenceau, the President of the Conference, replied:

‘The Allied and Associated Powers wish to make it clear that their requirements in regard to German armaments were not made solely with the object of rendering it impossible to resume her policy of military aggression. They are also the first steps towards that general reduction and limitation of armaments which they seek to bring about as one of the most fruitful preventives of war, and which it will be one of the first duties of the League of Nations to promote.’

And so it happened that the first Assembly of the League commenced the preparation for the general convention.



The difficulties were and are twofold: political and technical difficulties. The political difficulties may be summed up in a few words. They are the claim for security from a certain number of States. Material disarmament, it is declared, has as a condition moral disarmament; moral disarmament supposes a general feeling of security; and security could only result from mutual international assistance and the settlement of international disputes by arbitration.

Since 1924 the trilogy—Arbitration, Security, Disarmament—has been accepted by the League as a sort of motto above all discussion.<sup>1</sup> I consider this a mistake. I know that Article 8 of the Covenant provides that national armaments shall only be reduced to the level consistent with national safety, but at the same time it is perfectly certain that for this limitation there is no condition whatever. Two years ago, the Italian delegate, M. Scialoja, explained very clearly to the Assembly that security was not a condition but was a measure of disarmament. In my opinion the Members of the League of Nations have no excuse whatever for not having agreed in the first years of the League to a convention, even if the figures of that convention had been for some countries higher than the figures of their effective armaments. Would it not have been in itself a great achievement to nail the armaments down in order to prevent new increases and to take from the hands of the Governments in the different countries that freedom which they now possess to be the only judges of the needs of security in their countries? But that first step is now no longer possible, and would not be admitted as sufficient by world public opinion.

<sup>1</sup> Rather strangely the order has now been changed by some important French statesmen: Tardieu and Herriot, who as a rule put security first.

*iii. The Problem of Security.*

With regard to the second question, 'How far we shall have to disarm', it is here that security has its place.

A certain number of countries claim that they can disarm only if some international means are provided to take the place of the national forces which they now have. It is the well-known French thesis.

In reply to this, it must be stated that supposing it is true in principle, it does not sufficiently take into account the progresses already realized in the line of mutual assistance. The League of Nations has by its mere existence during the last ten years increased the security of its Members in a great many ways. When the Covenant was created, nobody knew whether the League would live. It has lived, and it has gained authority. Is not that a fact of a nature which should give security to the States which are afraid of the future?

Further, the tremendous progress made with regard to arbitration is often forgotten. There existed in the Covenant only that vague obligation to refer all disputes either to arbitration or to the Council, with no guarantee whatever that the Council could come to a unanimous decision, and with the way open to war after three months' delay in the case of the Council's not being successful in coming to a decision. Now nearly all the Members of the League have accepted instead of that the obligatory jurisdiction of the Permanent Court of International Justice for all legal disputes, and an increasing number of States do accept obligatory arbitration for the others. There are the treaties and conventions concluded at Locarno. There is the Kellogg Pact in which all the important States renounce the

right to declare war, and which in a very important measure does, in fact, extend the provision of the Locarno Treaty to other threatened States. And there is the Convention for Financial Assistance. All these treaties and conventions were intended to create security; but it is a sad fact that, while they are considered as very important when they are being negotiated and when their successful conclusion is doubtful, they seem to lose every virtue from the date of their entry into force. Later on, the same claim for security rises with just the same force as if nothing had been done. Thus it would appear that the work of creating security, at which the League has laboured for so many years, is almost futile.

In my opinion, having co-operated in the drafting of most of the treaties to which I referred, I have come to the conclusion that we cannot create security by any means whatever until we have a first convention on disarmament. It is impossible for French and Italian people to feel safe as long as troops do practise on both sides of the Alps a slight distance apart; and they will continue to feel unsafe until we do away with the maintenance of strong permanent armies and competition between States.

Another objection to a general reduction is that some of the Members of the League pretend to have reduced to such a level that they cannot go farther. This is very strange, as it is the essence of general disarmament that the need for armaments is diminished by the parallel reduction of military and naval forces in the other countries. How would the security of any country be changed if we diminished by the same percentage the armaments of all countries?

I know the military experts will not regard reasoning

such as this as serious, because they say that there are certain definite needs for armaments which are mainly dependent on the length and conditions of frontiers to be defended. A certain number of troops and guns are necessary for a definite length of frontier, and even if a country has only to meet a very small army it does not know at what point it will be attacked. For that reason there is for each country some force which will be required whatever might be the reduction of other armies. I think this opinion is wrong. The military experts seem to make a confusion between military security and political security. It may be true that in order to protect from the military point of view certain States against any foreign aggression a certain absolute amount of forces may be needed, but it must not be forgotten that if the forces of one country are reduced there is at the same time a reduction of the forces of other countries. If a country's means of defending itself are diminished, the potential aggressor is weakened to the same degree. He also loses something of his security; and in the general insecurity which results from that disarmament there is a guarantee of security, as no country would dare to attack another country if it felt that it was itself without the necessary means of protecting its own territory against any counter-attack.

*iv. The Need for International Control of Disarmament.*

There is a last objection which seems to me to be the most serious. It is that a country cannot disarm because there is the risk of bad faith; there is no guarantee that the convention will be carried out. The situation in Germany is given as an example, and it is stated that the actual situation with regard to armaments in that country is not in conformity with the Treaty obligations. I am ready to

accept this as a supposition, but I must first of all say that I do not think it is fair to compare the moral authority which we may hope the first general convention on disarmament will have with exceptional obligations imposed on a country under conditions which it may claim have not been fulfilled ten years later. Even if it were unanimously agreed that the limits of armaments imposed by the Peace Treaties have not been respected, I should still be confident that when reduction of armaments becomes general a large number of people in Germany and Austria will be ready to collaborate in order to ensure the fulfilment of international obligations.

I must add that I quite agree that for the next few years we shall need, at least in Europe, some measures of control. It is a fact that there is not sufficient confidence between the nations of Europe to disarm without control. I have often said that there would be no need for the League of Nations if there was not that danger of bad faith on the part of Governments. Has not the League been mainly set up as an organization of insurance and solidarity of all against the felony of some?

I know that control is not looked upon with favour by some States. I remember that when M. Léon Bourgeois proposed, when the Covenant was drafted, that there should be some general scheme of control, President Wilson opposed him with real passion, and said that if any international controllers went to the United States in order to investigate the fulfilment of international obligations, they would be thrown back into the sea.

I do not know whether that is still the opinion of the American Government, but the question of control is a vital one for Europe. The necessity for control is greater

than ever, and if we cannot get it in a general convention I very much hope the Conference will be able to draft an additional convention, at least for the Members of the League and Soviet Russia, providing for control organized in a more serious and effective way.

My conclusion is that we need a drastic reduction. Nothing else will restore public confidence in the League deeply shaken by the excessive delays in one of its most essential tasks.

#### *v. The Draft Convention.*

The Preparatory Commission has presented to the Governments a Draft Convention. This is only a framework without any figures; but it covers all the points on which it is proposed to disarm, all the ways in which it is proposed, and there is a classification of armaments. I think the critics of the work of the Preparatory Commission have very often been unfair. When one compares the work of the Preparatory Commission with the first conclusions of the same committee, composed of some other people, a few years before, and which came to the strange conclusion that there should be no reduction of military material nor of military budgets, but only some measures of publicity, it will be seen that the Draft Convention, which provides at least for a reduction of expenses, does represent a great step forward. It is only fair to state that this is due to a great extent to the British Labour Government and its so-called Conservative delegate, Lord Cecil. I must add, however, that if I am ready to praise the work of the Commission, I am at the same time not satisfied with the Draft Convention.

The German delegate, Dr. Curtius, declared at one of the meetings of the Council that the German Government

did not see its way to adhere to any convention drawn up on the lines of the Draft Convention if not seriously revised. I must confess that I understand this attitude, which appears to me in its conclusion if not in all its arguments as perfectly legitimate. I will not go into details, but will merely make a few criticisms.

My first criticism of the Convention is of a constitutional nature. Article 8 of the Covenant states that once the plans for reduction of armaments have been adopted by the several Governments, the limits therein fixed shall not be exceeded without the concurrence of the Council. This is the most important part of Article 8. Article 50 of the Draft Convention states:

‘If, during the term of the present Convention, a change of circumstances constitutes, in the opinion of any High Contracting Party, a menace to its national security, such High Contracting Party may suspend temporarily, in so far as concerns itself, any provision or provisions of the present Convention, other than those expressly designed to apply in the event of war, provided :

‘(a) That such Contracting Party shall immediately notify the other Contracting Parties and at the same time the Permanent Disarmament Commission, through the Secretary-General of the League of Nations, of such temporary suspension, and of the extent thereof.

‘(b) That simultaneously with the said notification, the Contracting Party shall communicate to the other Contracting Parties, and at the same time to the Permanent Disarmament Commission through the Secretary-General, a full explanation of the change of circumstances referred to above. . . .’

Therefore, instead of being under a definite obligation to keep within the limitation which has once been adopted in the Convention, each High Contracting Party would

have liberty to transgress the limits as much as it likes, without discussion by the Council or interference from any international body, provided it takes the initiative in communicating its decision.

Is that the meaning of Article 8? How is it possible that the Commission has proposed to the Members of the League such a flagrant violation of what was decided in the Covenant? I very much regret not having seen in the Commission's Report any reserve whatever relating to that Article, and I very much hope that in the next Assembly of the Conference the most solemn protest will be made against such a provision.

My second observation is of a more general character. The work of the Commission was technical—they had to draft a framework for a reduction of armaments. Why is it that the Commission had to work so long on this when there is a model in Part V of the Peace Treaties? Why could not the experts accept as a frame for all Members of the League and other Contracting Parties what was chosen as good for the four disarmed States in 1919?

And if the opinions of the technical experts had changed since 1919, why did they, in a document which set out a new system of disarmament, insist that the provisions of the Peace Treaties should be left unchanged for the States concerned? The Germans have asked this question many times and have never been answered. It is a question which all of us should put before our Governments.

If this scheme were adopted, I am afraid that we would have all the appearance of bad faith, and this would create such natural indignation in the disarmed countries that I do not think we could reasonably hope for future collaboration from them.



I will give a few examples of this contrast between Part V of the Peace Treaties and the Draft Convention.

The Draft Convention consists of six parts, as follows:

Part I.—Personnel.

Part II.—Material (Land, Naval, and Air Armaments).

Part III.—Budgetary Expenditure.

Part IV.—Exchange of Information.

Part V.—Chemical Arms.

Part VI.—Miscellaneous Provisions.

I will deal with only a few of these parts, and will take first of all that relating to military materials.

Part V of the Treaty of Versailles makes a great many prescriptions. Among other things, it prescribes the maximum number of guns allowed to the seven infantry divisions and three cavalry divisions which are authorized in Germany. If the number of guns in service is added to the guns in stock, Germany has a right to keep 204 three-inch guns and 84 four-inch guns. She has no right to have any guns bigger than those, at least except for fortifications.

'Armoured cars, tanks, and all similar constructions' are expressly prohibited by Article 171 of the Treaty of Versailles; and all surplus guns which Germany possessed had to be surrendered to the Allies in order that they might be destroyed under the supervision of allied officers. This has been done.

In the Draft Convention there is no question of any limitation either of the calibre or the number of guns.

There is budgetary limitation, which the experts declared to be the safest way. If that is the case—and I think it is not—why continue to have the limitation of the number

and calibre of guns for some countries? If that first method of limitation has proved to be without value, why keep it at all? If it has value with regard to the disarmed States, why not accept similar obligations for all countries?

With regard to stocks, let us suppose that the Disarmament Conference decides on a large reduction of expenditure, for instance, 25 or 50 per cent. If during the time before the coming into force of the new convention each country manufactures some thousands of new guns of the latest type, it will be allowed to keep them under the Draft Convention. The countries are under no obligation whatever to renounce any part of the armaments which they will have accumulated in stock: they have only to fix a limit for their expenditure in later years. Will that be understood by public opinion as being honest disarmament such as was promised to the disarmed countries? I do not think it will.

Then comes the fact that some arms are prohibited for the disarmed countries while other countries may keep them. Tanks are considered as being useless for national defence in the disarmed States, but the other countries may consider them necessary for their defence.

The same applies to submarines and to capital ships, or ships over 10,000 tons.

Military aeroplanes are prohibited for the disarmed States. I know the experts say that a distinction cannot be made between military aeroplanes and civil aeroplanes. That may be so, but while we prohibit military aeroplanes for certain States, they are allowed for other States as being necessary for defensive purposes. Is it possible that this will be accepted by the disarmed States?

With regard to chemical warfare, Article 39 of the Draft Convention states:

'The High Contracting Parties undertake, subject to reciprocity, to abstain from the use in war of asphyxiating, poisonous, or similar gases, and of all analogous liquids, substances, or processes. . . .'

What is the position with respect to the disarmed countries? Article 171 of the Treaty of Versailles states that the use of asphyxiating, poisonous, or other gases and all analogous liquids, materials, or devices is prohibited (not on condition of reciprocity), and their manufacture and importation are strictly forbidden in Germany. So that for the generality of the Parties to the new convention it is only a prohibition of use in the case of war under condition of reciprocity, but for the disarmed States it is a prohibition of manufacture or import without any reserve of reciprocity. Do you think it is possible to carry this through as being a fair settlement of the problem of the international reduction of armaments?

I know people will tell you that all these measures are necessary because Germany is aggressive, or at least suspected, and that the same weapons conceded to her might be used for offensive designs.

But I ask you, is this a possible basis for an international discussion?

Is this something we may reasonably ask the Germans to agree upon?

#### *vi. Some Practical Suggestions.*

Those are a few facts which I thought it necessary to put before you. They have been discussed at length at the Conference of the International Federation of League of Nations Societies at Budapest, and the unanimous conclusion was reached—which I think is rather astonishing if you consider that there were present people from most of the interested countries—that it was the duty of the League of

Nations to arrive at equal treatment for all its Members with regard to the limitation of arms. This was considered as the only possible solution consistent with the spirit of the League; it was not thought possible to maintain within the League two categories of Members, the 'vanquished' and the 'victors', or to pretend that the technical means necessary for national defence were not the same in quality for the defeated country and for the other Members.

At the same time, the fact was acknowledged—and the Germans in Budapest agreed—that from the first Conference we should not succeed in having a reduction of all armaments to the same level as those of Germany. It is impossible to get public opinion to make such a huge jump as that. We shall have to proceed progressively; but from the very first Conference we must realize that there should be equality in principle and in method, unity in the technique of Disarmament. What will that technique be? Will a choice be made between the new method of the experts and the method already existing in the Treaties? Or will the methods as we prefer be combined, and both adopted for the disarmed countries and for other countries? But one thing is sure: if all Governments will not accept some obligations existing in the Treaties, then these obligations must be abolished. There is no third solution.

Any other scheme which the Conference might insist upon would poison the atmosphere of the League and endanger its very existence.<sup>1</sup>

<sup>1</sup> Since this lecture was delivered, the Conference has met and made what may be called a good departure in the direction recommended by the Budapest meeting. The statement made at the seventeenth meeting of the Conference by its Chairman, Mr. Henderson, on the general tendency towards the prohibition of so-called offensive weapons, implies in fact an important concession towards the principle of equality of treatment. We salute this as a first success of public opinion.

## CHAPTER V

# THE CODIFICATION OF INTERNATIONAL LAW

Mr. JOHN J. HEARNE:

I PROPOSE to discuss the Codification of International Law within the compass of its usual bearings. I shall ask no further assurance than that which the history of the Geneva Institute of International Relations itself affords, that discussion on a subject such as this may legitimately assume the manifest trend and direction of deliberate international tendencies. If it be thought that in what I have to say I have gone too far afield to trace the history of the legal notions with which I am dealing, I shall defend myself by saying that law is not normally—and never for long—out of touch with life, and that the relationship which has existed between the twin sciences of history and jurisprudence is legitimate and of long standing. The law of the world community, by which I mean the Community of Nations, will be seen more and more to be of its very life, and if these two do not progressively coincide the immediate result must be the discredit of the one, and the ultimate result may be the disruption of the other. And the conclusion which I shall ask you to draw is that the policy of progressive codification laid down by the League of Nations in the year 1924 was alike wise and irreversible.

### *i. A New Chapter in International Law.*

It was William Edward Hall who prophesied a renaissance of the law of nations in this century. In 1889 he said:

‘Probably in the next great war the questions which have accumulated during the last half-century and more will all be given their answers at once. Some hates, moreover, will crave for satisfaction; much envy and greed will be at work; but above all, and at the bottom of all, there will be the hard sense of necessity. Whole nations will be in the field; the commerce of the world may be on the sea to win or lose; national existences will be at stake; men will be tempted to do anything that will shorten hostilities and tend to a decisive issue. Conduct in the next great war will certainly be hard; it is very doubtful if it will be scrupulous, whether on the part of belligerents or neutrals; and most likely the next war will be great. But there can be very little doubt that if the next war is unscrupulously waged, it also will be followed by a reaction towards increased stringency of law.’<sup>1</sup>

Even in those political discussions on the new relations of States which took place immediately after the World War, when the logic of the stricken field was still asserting its cold and merciless conclusions, a definite tendency disclosed itself to review the criteria of international law, to scrutinize and sift its evidences, and to affirm—or reaffirm—the grounds of its authority. If that tendency did not demonstrate a trend of international thought towards an organized world polity, it at least gave a new emphasis to the juridical conception of inter-State relations and to the necessity for conducting those relations in accordance with definite legal rules. The objections to the name ‘law’ as applied to the *inter se* relations of States fell to the ground. Obscure dissertations in the Grotian tradition on the relationship between international law and the law of nature went suddenly out of date; the confusion between international law and international morality was

<sup>1</sup> Hall, *International Law*, 3rd ed., Preface.

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cleared up; and the domain of international law itself could at last be defined in the abstract as that body of rules which civilized States regard as binding upon them in their relations with each other, the violation of which amounts to an infringement of a legal obligation. The problem that emerged was a problem of practical legal reform. The scope of the task to be undertaken narrowed to this, the gradual delimitation of the sphere of undisputed legal rules, and the making of such new rules as the changed character of international society and the changing needs of international life called for in the interest of the general welfare of the world. Inevitably, international thinkers turned their attention to the working out of a technique of 'codification'.

When I say that dissertations in the Grotian tradition went out of date in the discussions on international law which followed the World War, I do not mean that the notion of a natural law of nations—as a practical possibility—had survived until then. The notion of natural justice amongst nations had of course survived, as it always will. And so long as it does, the idea of a natural law of nations—in the Grotian sense—can never be dismissed as wholly fantastic or indefensible. If there be a law of nature inherent in human relations, a law which has at once as its basis and its manifestation the working of human reason in civilized mankind, that phenomenon itself is your ideal international code, provided, of course, that the nations agree as to its content and the precise scope of its ordinances.<sup>1</sup> But it is at that point that the conception of a natural law of nations must break down. For if the nations agree as to the content and scope of a natural law governing their relations, it is in that agreement and not elsewhere they will find the criterion

<sup>1</sup> Cf. Wheaton, *International Law*, 6th ed., 1929, vol. i. p. 9.

of the legal binding force of such a law. A natural law of nations was as incapable of adjustment with the view which modern States took of their sovereignty and independence as was that view itself with any Austinian definition of international law. From both the notion of 'the consent of the nations' as the ultimate criterion of the authority of the law was absent. The attempts, therefore, to erect a system of positive international law upon metaphysical principles or applied municipal precedents did not succeed.

From an examination of the traditional sources of the law of nations it is clear that the mainstream flowed from custom and treaties. There were, of course, the other sources—for example, the writings of the jurists. Doctrinal writings, however, had just that degree of authority which the distinction of the individual author gave to them, and the authority of the greatest, while never final, was always restricted in scope. Indeed doctrinal writings had no authority at all save where the commentary cleared up a doubtful proposition, or clarified a rule already implicit in the customary or treaty law of the time. 'Writings on international law,' said Chief Justice Cockburn, 'however valuable their labours may be in ascertaining and elucidating the principles and rules of law, cannot make the law. To be binding the law must have received the assent of the nations who are to be bound by it. This assent may be expressed, as by treaty or the acknowledged concurrence of Governments, or may be implied from established usage.'<sup>1</sup> The same criticism applied both to the older writings and to the later unofficial codes of Mancini, or Field, or Fiore. There were, again, the decisions of arbitral tribunals. But these decisions more frequently declared the law than created it, and more fre-

<sup>1</sup> R. v. Keyn (Franconia), 1876, 2 Ex. D. 63, 202.



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quently still amounted less to decisive statements of the law than to amicable settlements of the particular disputes referred to them. But it is in the consent of the nations to the application *inter se* of the customary rules and in their consent to the terms of the treaties to which they were parties that one finds the principle upon which the law of nations of the future must be founded. That was the first application to the international world of the doctrine of government by the consent of the governed.

### ii. *State Sovereignty.*

It was a coincidence of importance to our purpose that those European Conferences which have been called 'potential and embryonic law-making bodies',<sup>1</sup> namely, the Congresses of Osnabrück and Munster, while they agreed upon a 'new society of nations and gave to that society a fundamental law',<sup>2</sup> agreed at the same time to the principle of State sovereignty which more than any other principle that we know undermined that society and wrecked its law. The doctrine of territorial sovereignty and its corollary, co-equality, were the ideas most clearly reflected in that Covenant which the Peace of Westphalia set in the European firmament against the background of the Thirty Years' War. They gave its character to that whole after-history of Europe which the War of Nations abruptly terminated. The abortive attempt of the Congress of Vienna to construct 'a stable peace' upon the constitutional decrees which it promulgated, while it did not immediately alter that character, destroyed—as the aftermath showed—the prospect of its permanence. Until 1899, when the First International Peace Conference met at The Hague, no event had taken

<sup>1</sup> Fenwick, *International Law*, 1924, p. 19.

<sup>2</sup> *Ibid.*

place which could be called a landmark in the progress of the idea of the international agreement as the legal basis of the government of international society. The Hague Convention for the Pacific Settlement of International Disputes was the first agreed international law in statutory form.

But the evolution of the modern State had been accompanied by intensive academic discussion as to the marks or notes by which a State should be known. Some of these marks (for example, the possession by a community of a Government receiving *de facto* allegiance, and having definite territories) related to questions of fact which were easy to determine, but the central and paramount attribute of sovereign independence was sometimes not easily discernible in the case of numbers of States included in the manifold classifications (real unions, personal unions, federal unions, vassal States, etc.) into which the lawyers had divided the political communities of the world. The right of a political community to recognition as a State, and ultimately its right to membership of the Family of Nations, depended in the last resort upon its 'sovereign independence'. The definition of this synthetic attribute implied, so far as internal matters were concerned, complete and exclusive control, and in so far as external relations were concerned independence of control by any other society. The rules of international law had begun to take definite form at a time when the Family of Nations consisted of that small group of Christian European States who were its original or, as they have been called, its 'charter members'. But the growth of the notion of sovereignty synchronized with that moment in history in which the Family of Nations began to widen its circle by the admission of new members. Prospective new members had to establish their right to admission. Admission was by

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no means granted as a matter of course. It seemed that international society was not to be widened at the expense of international good form. And failure to establish the right of admission placed the disqualified community 'theoretically beyond the pale of international law'. It was inevitable that the idea of sovereign independence so essential in the make-up of the débutante to the new international society of a hundred years ago should become the most fashionable notion in the school of academic thought which developed under its patronage. By a curious converse that notion was evolved in a school directed by the Christian States of Europe, whereas 'if a law had been formed upon the basis of the ideas prevalent during the Middle Ages the notion of the absolute independence of States would have been excluded from it'.<sup>1</sup> It was repugnant to the hierarchical bias and basis upon which the feudal system had rested. It is important, however, for our present purpose not so much for what it was as for what it became. It became the basic notion in the most clearly defined international psychology which had ever existed in the world before the establishment of the League of Nations. The conception of the State became no more and no less than that of a conglomeration of international rights. Rights were endlessly discussed, endlessly defined, and endlessly disputed. The essential reservations in treaties became reservations as to the 'vital interests' and 'national rights' of the parties. In time the doctrine of sovereign rights became the *idée fixe* in a mad obsession driving for conflict. Rights became increasingly the subject-matter of international law, 'le droit international'. When, therefore, Bluntschli wrote his definition of international law the aspect which he emphasized was that which 'secured

<sup>1</sup> Hall, *International Law*, 8th ed., p. 18.

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to the members of different States a common protection of law for general human and international rights'.<sup>1</sup>

### iii. *The New International Order.*

Over against that older order and in growing contrast with it stands the new world community. Between them lies a gulf which may yet prove to be the great break or divide in human history.<sup>2</sup> The world community is going forward to its fulfilment in innumerable ways day after day. It has its own constitution, its own executive, its own judiciary, and its own legislative machine. I must, however, refer to what I conceive to be the fundamental difference between the order in which we live and the order which is passed away. That difference is, of course, in the new conception of international relations, by which I mean that conception which is essentially based not upon rights but upon obligations. The Society of Nations was constituted on the basis of international obligations, and not on the basis of international rights. 'The notion of an independent sovereign State is, on the international side,' wrote Professor Laski, 'fatal to the well-being of humanity,'<sup>3</sup> and, I would add, destructive of the idea of a world community as this Institute understands it. The existence of a society of individuals presupposes individual obligations in the first instance, and, in the second, such rights as all the members of the society enjoy equally by reason of their membership. A society of individuals who disregard their obligations, who act 'just as they like', and who refuse to keep the rules, will not long endure. And a society that has no rules is not in any real

<sup>1</sup> *Das Völkerrecht*, Section 1.

<sup>2</sup> Cf. General Smuts at Oxford, 9 November, 1929.

<sup>3</sup> *A Grammar of Politics*, 3rd ed., London, 1928, p. 65.

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sense a society at all. The same is true whether your society be a society of individuals or a society of nations. Much learned writing has been devoted to the task of discovering whether the old order to which I have been referring ever possessed a political philosophy proportionate to its needs. I do not know. But if one of its principles was this, that the doctrine of sovereignty rested upon the idea of what might be called international free will, it was not only a disastrous political error, but a manifest philosophical fallacy. I am sure that there are some who still define free will as the power of doing as one likes. But I think that that definition of it which is summed up in the phrase 'the power of refusing to do as one likes' is more in accordance with our individual experience of that psychological phenomenon. And if the world community is to have a political philosophy at all, must it not be based upon the notion that the States of the world must refuse to do just as they like? Must not the contrast be complete in this respect between the world community and the States of the older world which did as they liked in the conduct of their international business and 'justified' their actions, however irresponsible they might be, upon the theory of sovereign independent rights? Rather must its philosophy proceed from the premise that the very definition of Statehood and independence imports the notion of international obligation and presupposes it as the first principle of the existence of a world community and the condition precedent of its method, international co-operation. And if this be regarded as the philosophy of an idealist, I will ask in reply whether most of the general questions affecting the prosperity and even the existence of States are not—in the dwindling world in which we live—international in character.

iv. *The Object of Codification.*

It is because these ideas lay at the basis of the whole constitution of the new international order that they need new emphasis in any discussion on the elaboration of the rules of law by which the routine life of the world community is to be governed. I am sure that these ideas drive down to the very root of the question before us, for, if international life is to be fully organized on the basis of international obligations, it is manifest that the obligations themselves must be accepted by the nations, and that the nature and scope of these obligations must be plain to be seen. The normal relations of States to each other must be founded upon the basis of agreed law if they are to be conducted in a legal way. And this is what I conceive to be the object of codification. I know that there are many who take the view that it is not possible to codify international law. I know that some distinguished international jurists, while recognizing the definite triumph of the principle of codification in the United States at the successive Pan-American Conferences, have been drawing the conclusion that for Europe codification is still an extremely remote and entirely problematical achievement. But if the traditions of pre-war Europe are to be the reason for making codification impossible, or at any rate so difficult as to be a futile undertaking, we have made little progress towards the development of the psychology of a world community. Happily, some of the very greatest of our lawyers have been leading the way in removing the legal bases of these traditions. If, as has been the case, the legal notion of sovereignty itself has undergone a change; if, as is the fact, it has been splintered even in so conservative a tribunal as the English Court of Appeal in

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Lord Finlay's famous decision,<sup>1</sup> one should not expect to find those international jurists who, like Lord Finlay, have seen the new world organization in the making, arguing the traditions which grew up in the days of Story and Lord Stowell as the obstacles to progress in that sphere of international co-operation which may well become the most important of all, namely, that of the conscious formal development of international law. Fortunately codification is not in the last analysis, strange as it may seem, a task for international lawyers only any more than the task of law-making within the State is one exclusively or even mainly for the national lawyers. 'The fact must be recognized', as Dr. Oppenheim has stated, 'that history has given its verdict in favour of codification.'<sup>2</sup> And history clearly declared for the codification of the law of nations when codification became the deliberate policy of the League of Nations.

The progressive codification of international law became the policy of the League of Nations in the year 1924. One is frequently told that a certain confusion exists as to what was meant by the proposal, but I think the extent of any such confusion has been much exaggerated. Three years before the First Conference met at The Hague in 1930, M. Politis, in that work of his which has enriched international thought with so many progressive ideas, wrote of codification as follows:

'One can imagine first of all a re-casting and renovation of international law by the establishment of a complete system of codes similar to those which exist in the majority of countries for their internal law. Supposing that that were capable of

<sup>1</sup> *Duff Development Company v. Kelantan Government* [1924] A.C., p. 799, Judgement of Lord Finlay.

<sup>2</sup> *International Law*, vol. i, 4th ed., 1928, p. 47.

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realization, such a work would be a task at once vain and dangerous, for international relations have not yet reached the requisite condition of progress.

'At the other extreme one can think of simple formulae of existing rules without adding anything new. The only advantage of that would be to render more precise and clearer the law actually in force, but it would be threatened by the danger of rendering the law too stereotyped.

'The intermediate way consists in a work which is at the same time one of consolidation and reformation. It is in that sense that one generally speaks of the progressive codification of international law.

'It is a matter of setting down, in a first series of Conventions relating to the most important subjects of international law, in clear formulae capable of being accepted by all civilized countries, the rules of law already established, whether or not these rules have been confirmed by custom or by treaties, and side by side with them those rules of construction which are absolutely indispensable to ensure their practical application. It is a task partly legislative which should not be undertaken without great prudence and caution.'

The task that is contemplated is not, I think, merely a consolidation of existing rules, but also a task 'partly legislative', namely, the establishment by legislation of such new rules as the nations of the world may agree upon. The word 'consolidation' taken from the municipal precedent of the Consolidation Statute has been used to define the process of re-stating the existing rules of international law in agreed codes; but the use of the word in this sense appears to me to be unfortunate. For I think it will be found that the majority of Consolidation Statutes not only re-enact the

<sup>1</sup> N. Politis, *Les Nouvelles Tendances du Droit International*, 1927, pp. 197 and 198.



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existing law, but also amend it, and thereby make new law. International legislation is the process of making new international law. And the method of international legislation is the treaty or convention.

‘A written statement of any branch of the law of Nations can, of course, become binding only by means of convention; since treaty-making on a large scale is the only substitute for legislation available to a group of independent political communities.’<sup>1</sup>

Hence the phrase used by M. Politis, ‘It is a task partly legislative’, in the context just quoted. It appears to me, however, to be undesirable to maintain this distinction between ‘consolidation’ and ‘legislation’ too rigidly; for if international law is to be codified and accepted by the nations for a body of rules binding upon them in the codified form, international legislation will be necessary whatever the scope of the code, that is, whether or not it contains new rules.

Let me turn, then, to the question as to whether the codification of international law in the sense suggested is necessary or desirable. ‘Codification’ in the sense in which I am using the word is not, of course, altogether a novel undertaking. Successful efforts have already been made to codify certain branches of international law. Even before the war of 1914 there were the Universal Postal Union and The Hague Marriage Convention, and these constituted definite codes of administrative law and private law respectively. The Hague Conferences of 1899 and 1907 had actually undertaken a codification of the public law. But since the war the process of progressive codification has been steadily taking place. In 1919 there was the Convention for the Regulation of Air Navigation. In 1921 the principles of international

<sup>1</sup> Holland, *Studies in International Law*, p. 82.

law relating to communications and transit were laid down by the Barcelona Conference. The progressive regulation of international relations has since been taking place in various Conventions—Conventions for the Simplification of Customs Formalities, on the Recognition of Arbitral Clauses in Commercial Contracts, on Traffic in Women and Children, and the many International Labour Conventions. These codes relate, however, to special subjects or subjects of a somewhat technical character. The codification of international law at present in mind relates to purely legal questions and to the normal duties and rights of States in the principal spheres of international activity. It is this that I conceive to be indispensable to-day.

*v. The Theoretical Reason for Codification.*

The history of all legal systems has shown a definite development from customs to conscious law-making. With the development of the community to that stage at which its members became conscious of its existence as such, the inadequacy of the casual and unrelated customary rules became manifest. There followed the deliberate process of law-making to meet actual needs, accompanied by the creation of institutions to administer the new laws. Professor Brierly, applying this fact of history to the world community, has written: 'The international community, tardily but definitely, as it seems to me, has arrived at a stage where the inadequacy of a purely or mainly customary system is manifest, and a purposive, as contrasted with an instinctive, development of its legal system has become a recognized and an urgent need.'<sup>1</sup> I think it will be agreed that, if

<sup>1</sup> 'Legislative Function in International Relations,' *Problems of Peace*, Fifth Series, p. 205.

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the juridical relations of States are to be put upon a proper legal basis, that part of international law which is derived from custom must sooner or later be embodied in statutes. Where in any given sphere of their activities the obligations of States are undefined in scope or confused in form, the incidence of those obligations will become doubtful and the obligation itself will be either denied or evaded. It is not, I think, possible to exaggerate the importance of the form of law as a factor not only in its administration and interpretation, but in determining the measure of respect and obedience which the principle it embodies will receive. I pass over, in this connection, that part of international law which derives from the decisions of arbitral tribunals. For there is little doubt that the judicial precedent is going to remain, if not as a law-making expedient, at any rate as an interpretative process. The Permanent Court of International Justice may not—and I think cannot—become precedent-bound, but I think it is generally accepted that the coercive force of the precedent upon the judicial mind in those countries which have adopted it rested not upon any theory as to the authority of the precedent itself so much as upon a natural bias in favour of the adoption of previous decisions ruling precisely similar cases. Take, again, that part of international law which has been stated to derive from doctrinal writings. It is, I think, true to say that the writings of Ayala, Grotius, Gentilis, Pufendorf, Bynkershoek, Vattel, or De Martens have been cited before international tribunals pretty much for the same purposes—and only for the same purposes—as those for which the English Courts have allowed the citation of the writings of Blackstone or Coke. The object of such citations was ‘not to make legal rules, but to prove their existence and to construe them in a doubtful

case'.<sup>1</sup> It was the uncertainty of the law and the confusion which existed as to the scope of the practice that gave to the writings of jurists any vogue of authority at all. I think that the function of the jurist in the future will be a great function, but that it will not be—as it never has been—a law-making function. His function will be that of influencing the development of international law rather than creating it. As early as the year 1905, Baron Alverstone said: 'The views expressed by learned writers of international law have done in the past and will do in the future valuable service in helping to create the opinion by which the range of the consensus of civilized nations is enlarged.'<sup>2</sup> The jurists, then, will be pressed into the work of gradually delimiting the sphere of undisputed rules. They will have a definite place in the work of progressive codification.

I take this, then, to be the theoretical reason for the necessity of a codification of international law, namely, that the world community has arrived at a stage of development when the task of conscious law-making commensurate with its special needs and requirements must be deliberately and conscientiously undertaken.

vi. *Some Urgent Practical Reasons.*

But there are practical reasons of the very greatest urgency. I trust that it will not be regarded as a cynical comment upon the machinery which has been constructed with so great pains during the past ten years for the pacific settlement of international disputes if I say that its basis is to be found in a vast belief in the disputatious instinct as a permanent condition of

<sup>1</sup> Birkenhead, *International Law*, p. 24.

<sup>2</sup> *West Rand Central Gold Mining Company v. R.* [1905] L.R. (2 K.B. 391), at p. 402.

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civilized mankind. The General Act, the Kellogg Pact, the Statute of the Court, and the Covenant itself presuppose the continuance of international disputes in the future, and the function of these instruments will be to prevent the issue of those disputes in war. But over and above those instruments should there not be others which, by the precision and clearness with which they define the legal duties and the legal rights of States in their mutual relations, will diminish the frequency with which disputes can arise and limit the scope of such disputes as actually take place? The majority of the existing rules of international law are nowhere to be found in statutory form, or indeed in any certain form, and that that is so is explained by the fact that they grew up at a time when the very idea of international co-operation on a world scale was unknown. I wonder what would be said of a modern State which had a Constitution and a judiciary, which had outlawed the doctrine of self-help—as the world community has outlawed war—as the instrument whereby its individual citizens were to force others to fulfil their obligations, and yet had no definite codes to determine what the duties and rights of the citizens were other than the custom of the country or the dicta of its learned men. I am aware that most of the comparisons that have been made between the world community and the State do not hold. But the point I wish to make clear is that the world community should not cease its legislative activities simply because it has enacted its public safety legislation or legislation which it regarded as being a matter of life-and-death urgency. Rather, its legislative activity must penetrate to the sphere of what I have called the ordinary law, and continue there the work of progressively delimiting the vast margin of uncodified rules.

Let me carry this idea one step farther. The existing rules, having grown up in conditions wholly different from those at present obtaining, require far-reaching adjustment with the structure of international society and with the policy of its members as to the future of their international relations. If the existing law, based as it is upon the individualistic theory of the State, continues to be the expression of that theory in a world which is gradually discarding it, and remains the justification for insistence upon rights as against obligations in a world being reconstructed upon the principle not of rights but of obligations, the result will be a conflict in some respects between justice and law, and in time perhaps the erection of the very negation of justice into a legal system. I referred at the beginning to a natural law of nations. If that idea could have survived, there would have survived in it a very definite principle of self-development. International law, like the Society of Nations itself, is not and must not become static. The process of reforming old rules and adapting them to new conditions, and the process of making new rules, must go on side by side with the development of the world community itself. If we do not insist upon that, we will be 'consenting to a divorce between the law and the ideas of justice prevailing in the society for which the law exists; and it is certain that so long as that divorce endures, it is the law that will be discredited'.<sup>1</sup> I do not need to emphasize that the development of new customary rules is under modern conditions a most unusual occurrence. What, then, is to be the method for adjusting the existing rules? What other can it be than that of legislation consciously undertaken and deliberately designed to achieve those ends?

<sup>1</sup> Brierly, *The Shortcomings of International Law*, B.Y.I.L., 1924, p. 16.

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If the function of law were indeed merely to remedy evil done or to settle disputes, we might perhaps be satisfied with the machinery which has been so carefully built up for that purpose during the past ten years. But the function of law, as I understand it, is to maintain order in the community by regulating the conduct of its members: in other words, to prevent disregard for obligations and infringement of rights by enjoining a sense of legal duty with regard to them.

Lastly, it will be recalled that when the Statute of the Permanent Court was being framed its authors called attention to the desirability of reducing the rules of international law to a definite and precise form. Dr. Guerrero has observed that the question of codification obtruded itself then 'not because the written law is indispensable to the proper administration of international justice, but because such administration would be singularly facilitated by clearly defined rules'.<sup>1</sup> I submit that the more fundamental ground which I have taken requires us to put the matter much further than that. And Dr. Guerrero himself indeed does so in another context when he states: 'The question of the utility, heretofore contested, of a codification of international law no longer arises. It has even at the present stage gained such ground that in the eyes of the great majority it has become a primal necessity.'<sup>2</sup> I think there can be no doubt that the administration of international justice cannot be properly effected so long as any antithesis exists between justice and law, and that anyway a definite statement of the rules of law to which it is to give effect is necessary to the administration of justice through a judicial tribunal.

<sup>1</sup> *La Codification du Droit International*, La Première Conférence, 1930, p. 16.

<sup>2</sup> *Ibid.*

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Let us look at Article 38 of the Statute, which refers to the law which the Court is to apply. It is to apply (1) international conventions stating the rules which are expressly recognized between the contesting States, (2) international conventions, as evidence of a general practice accepted as law, (3) the general principles of law as recognized by civilized nations, and (4) subject to the provisions of Article 59, judicial decisions of the writings of the most highly qualified publicists. How little of all that law is written down in the form in which codification will be effected, namely, the treaty-form! From 1922 to 1929 the Court gave sixteen judgements and sixteen advisory opinions. In the majority of these cases the decisions of the Court primarily and mainly depended upon the interpretation of an international instrument. It would not be true to say that questions of general international law never arose in these cases, but such questions as did arise were incidental, and did not form the real subject-matter of the decisions.<sup>1</sup> But does it not occur that, apart from the compulsory jurisdiction of the Court, States may not desire to risk adverse decisions by the Court on disputed points of general international law where in the absence of a code the principle or the practice is not clear, or, at any rate, not clearly binding? As Dr. Guerrero has put it, codification not only facilitates the Court in the administration of justice, but 'inspires confidence in States',<sup>2</sup> a confidence which, born of certainty as to the law, in turn inspires also confidence in the Court itself and in the result of their voluntary resort to its jurisdiction. 'Justice administered according to law', said Professor Hudson, addressing this Institute last year, 'must be predic-

<sup>1</sup> See 'International Law and the Permanent Court,' Fachiri, *Problems of Peace*, Second Series, p. 90.

<sup>2</sup> Op. cit., p. 16.



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able, it must be possible for lawyers to know in advance what it is going to be.' <sup>1</sup>

But is there not a danger that, because the method of codification followed heretofore has not produced the results hoped for by its authors or results satisfactory to the well-wishers of codification generally, the work itself may be postponed? I think there has been a tendency recently to seek to answer the case for codification by exaggerating the difficulties of method in general and by condemning in particular the method followed at the First Codification Conference.

### vii. *The League Method.*

Let me turn, then, to this all-important question of method. It will be recalled that, when the Fifth Assembly adopted the Resolution of 22 September, 1924, and declared for a deliberate policy of progressive codification, it based the prospect of success upon the experience of the previous five years which had 'demonstrated the valuable services which the League of Nations can render towards rapidly meeting the legislative needs of international relations'.<sup>2</sup> The Resolution adverted to the important Conventions then already drawn up regulating the relations of States in certain special spheres. The Committee of Experts referred to in the Resolution were directed 'to prepare a provisional list of the subjects of international law, the regulation of which by international agreement would seem to be the most desirable and reasonable at the present moment'. I do not think that it can be successfully contended that the policy therein laid

<sup>1</sup> 'The Administration of International Justice,' *Problems of Peace*, Fifth Series, p. 186.

<sup>2</sup> *Records of Fifth Assembly: Plenary Meetings*, p. 125.

down was not sound and irreversible. If 'the legislative needs of international relations' include a progressive codification of international law, what remains is for the Assembly to decide what the method is to be. What will be needed is a method that will work—that is, a method which will result in the making of actual codes gradually, slowly it may be, but surely. And I think that at the present time the League of Nations has already before it very definite indications of the principles upon which the method of codification must be framed.

Not the least of the services which the First Codification Conference will be seen, as the years go by, to have rendered to the world community will, I think, be that it directed attention to the fundamental importance of a technique or science of codification. Much criticism has been made of the results which that Conference produced, but I think that the truest summing up of its place in the history of the codification movement has been written by Professor Hudson in the following words: 'The First Conference for the Codification of International Law must be viewed as part of a larger picture. That picture portrays an effort which ought to be continued for half a century to come. A beginning has been made, some steps have been taken, some lessons have been learned, some mistakes have been exposed, some threads have been left hanging which future Conferences may pick up, some lines have been forged along which future effort may proceed.'<sup>1</sup> It was inevitable, perhaps, that in the discussions we heard a good deal about 'sovereignty', 'national law', and 'national rights'. But, then, the problem of the world community is largely the problem of enabling us to

<sup>1</sup> *American Journal of International Law*, vol. xxiv, No. 3, July 1930, p. 466.

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grow out of these ideas, or rather to readjust them. In discussing the Nationality Convention concluded at the First Conference, Mr. Flournoy, who played so distinguished a part in the discussions, has adverted to the point which I have been emphasizing all through. He says: 'Since international law presupposes a general agreement among States, it necessarily follows that the development of international law as to any subject will be slow and painful in proportion to the emphasis which is put upon national prerogatives and needs as opposed to obligations incident to international intercourse.' <sup>1</sup> That, I think, is one of the lessons of The Hague Conference of 1930.

Take, again, the subject of territorial waters. There are not many subjects more important in international law than that of territorial waters. Jurisdiction upon the sea inevitably became an important extension of the doctrine of State sovereignty at a time when countries divided by seas were united only by ships. The discussions at The Hague on territorial waters illustrated the increasing embarrassment of the older ideas. At least there was no definite triumph for the idea of 'sovereignty' as against that of co-operation. The real cause of the inability to secure agreement at The Hague on the subject of territorial waters was clear before that Conference met. The replies of the Governments to the questionnaire were widely different and largely irreconcilable. As the Preparatory Committee ought to have seen, and as Professor Reeves has pointed out, '... disagreement was invited by the presentation of bases of discussion not founded upon prior substantial agreement'.<sup>2</sup>

As regards Responsibility of States, the third subject con-

<sup>1</sup> *American Journal of International Law*, vol. xxiv, No. 3, July 1930, p. 467.

<sup>2</sup> *Ibid.*, p. 488.

sidered by The Hague Conference, I doubt if there is any subject in the whole field of international law which is more complicated, and I am sure that there is none that is more important. Responsibility of States for the damage done in their territories to the person or property of foreigners clearly involves principles fundamental to the entire fabric of public international law. Those principles become more and more active as geographical distance disappears and as citizens of one State pass more easily and more frequently into the territory of others upon their lawful commercial occasions. That so ambitious an undertaking as that of endeavouring to make principles so technical and so complex yield to the codification process should have been proceeded with in the face of the failure of a large group of States to make any reply at all to the preliminary questionnaire submitted to their Governments was daring indeed. Of all the reasons that have been given for the failure of The Hague Conference to produce a convention on this subject, I emphasize this alone as indicating a lesson which The Hague Conference affords for the future conduct of this work.

Let me apply what I have been saying to the problem before us, namely, the problem of method. I want, first of all, to repeat the elementary observation that whether our codification is to include the making of new rules or to be restricted to re-stating existing rules, or is to be—as I think it must—partly the one and partly the other, it postulates agreement amongst the Governments as to what the codes are to contain. Agreement amongst Governments involves

<sup>1</sup> See also M. Marcel Sibert, Preface, *La Codification du Droit International*, Guerrero, 30, p. viii. Giannini, *Minutes of First Committee, Eleventh Assembly*, p. 60.

decisions by the parties on issues of policy. And decisions on issues of policy are obviously the business of politicians. Codification, therefore, is not essentially the business of the international lawyers. If codification were a question of draftsmanship merely, we did not need perhaps to go beyond the lawyers. But the whole object of the codification movement is to draw up statements of the law by and in the form in which the States of the world are going to agree to be bound. No one would think of regarding the draftsman of a Bill of Parliament in any of our legislatures as being the maker of the law. It is those who pass the Bill, who agree with its policy and vote for its provisions, who make the law. And it is the States of the world which must make your codes of law by agreeing to be bound by them. If we apply the commentaries (just quoted) of my American friends to the problem of codifying principles of international law, whether the principles be old or new, it is clear that the business of those who are to conduct the codification process—whatever it is to be—will be to aim at securing the agreement of the Governments. It was *Le Journal de Genève* which said that The Hague Conference was juristically a success but diplomatically a failure.<sup>1</sup> I think that that was a fair comment on the First Conference. It was clearly so as regards its work on the subject of Responsibility of States. As regards its work on the subject of the territorial sea, it was not remarkable that a Committee juristically so well prepared as that which considered that subject, having found themselves unequal to the task of defining the extent of the territorial sea—and admittedly that was a task not for jurists or technicians, but for diplomats and statesmen—were able to

<sup>1</sup> See also M. Urrutia, *Minutes of First Committee of Eleventh Assembly*, p. 93.

produce a Draft Convention on the legal status of the territorial sea. As regards the subject of nationality, the delegates to the First Conference came armed with University degrees and instructions from their Governments so rigid that no margin was left to them in which to discuss compromise articles in a Draft Convention. In the discussion on that subject, delegates frequently began and ended with statements as to the state of their national law and statements to the effect that their respective Governments did not intend to modify their national law. It was those delegates—distinguished, but few in number—who were in a position to say, and did say: ‘Our law is so-and-so; this draft Convention contains a principle which is inconsistent with our law; but we will alter our law in order to comply with that principle’, who displayed what has been called ‘l’esprit de codification’, and who made the contribution—and shall I say the sacrifice?—which the progress of this work will increasingly call for. And if codification involves legislation at one stage or another, this difference between the outlook of the lawyer and that of the politician and practical man of affairs becomes more important still. Addressing the First Committee of the Eleventh Assembly on the question of codification methods, Mr. Costello, Attorney-General of the Irish Free State, used the following forceful language:

‘It is the role of the legal man to ascertain, if he can (in very many cases he cannot), what is the rule of international law. If he can ascertain that, he can write it down and formulate it as a principle. But where tremendous divergencies of opinion exist on practically every point, the politician must come in and the statesman must inform the expert. There must be room for agreement. Mere academic discussion on the principles of international law or its basis, or on principles which are not recognized

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as existing rules of customary law, will lead nowhere. Unless the legal expert is motivated by political considerations, authorized to put aside academic ideas and meet the other points of view in a spirit of compromise, no possible result can be achieved.' <sup>1</sup>

If one bears in mind the fact that international law must be made to fit the world community rather than vice versa, the significance of these observations becomes clearer still. If international law is to develop along the lines of the political direction in which the world is moving, it is clear that the actual principles and rules which it comprises fall to be formulated in the last resort by those who direct the course of political events. The history of the efforts towards naval disarmament illustrates very forcibly the function of the politicians in another department of international co-operation. The naval holiday contemplated by both Great Britain and Germany before the war did not materialize, because of the divergent political aims of the two countries. The Washington Conference of 1921-2 succeeded where there was political agreement, and failed where there was no political agreement. There was political agreement that a collision of battle fleets was unthinkable, and accordingly agreement as to the ratio of battle fleets followed without difficulty. The naval problem of the Pacific became soluble, because the political objectives of States concerned in the Eastern Pacific, the Far Eastern waters, and the Indian Ocean were clearly agreed. But no agreement emerged on the subject of cruisers, destroyers, or submarines, because the nations could not agree on the political relations which should exist between Europe or the League of Nations and the United States. The Geneva Naval Conference of 1927

<sup>1</sup> *Records of the Eleventh Assembly: Minutes of First Committee*, p. 88.

failed because it was neither preceded nor accompanied by any political discussions at all. Admiralty experts vaguely discussed 'parity' as if it meant an advance towards naval disarmament, but each was careful to interpret it in a sense in which it meant an individual advantage. No political agreement existed as to what the function and the purpose of the cruiser were to be. Whatever success attended the London Naval Conference of 1929-30 was the result of the political understandings which united its members. And these understandings were made possible by the fundamental political decision which preceded the Conference, namely, the Kellogg Pact. I think it is clear that the success or failure of all other Disarmament Conferences will depend upon the extent to which the political agreement contained in the Kellogg Pact has broken down or will progressively break down the tradition that every nation should possess the armaments which its 'national needs' called for in a world in which war was regarded as lawful, or at least as inevitable.<sup>1</sup>

The first principle, then, is that codification itself is fundamentally a political task, or, at any rate, a task which involves the making of fundamental political decisions.

And the second principle, I think, is this, that the codification process must be continuous. In many of the discussions which have taken place in academic societies and in learned journals on the subject of codification, there has been a tendency to slur over or to drop altogether the important qualifying word 'progressive'. The policy which the League of Nations declared for in 1924 was the policy of a progressive codification. Nevertheless, I think that part of the dissatisfaction which has been expressed with the results of The Hague

<sup>1</sup> See Latimer, *Naval Disarmament*, Introduction by Philip Kerr (*passim*).



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Conference is owing to some impression that the codification of international law is a work in which expedition matters most of all, and that codes of international law can be shot forth suddenly from some sort of automatic codifying machine or spatchcocked into history like stop-press editions. I am sure that it was a mistake to anticipate that The Hague Conference could in a period of less than four weeks produce elaborate instruments on three entirely different and wholly unrelated subjects.<sup>1</sup> The more one examines the whole experience in connexion with that Conference, the lack of diplomatic preparation of the ground, the diplomatic mistakes at the Conference itself, the shortness of the time and the inadequacy in numbers of the delegates to deal with three separate and distinct subjects at the same time, the more one realizes that the Conference illustrated how the process of codification should *not* proceed.

Those who have had any experience of the framing of national laws, especially of drafting what have been called consolidation statutes, know how exacting and protracted a labour it can be even when there is little disagreement as to the law to be consolidated or the amendments required. How much more difficult, exacting, and protracted a performance must be the formulation of rules of international law as to the very principles of which some doubt may exist and the scope of which even when the principle is agreed may be a matter of controversy. Add to these considerations the difficulty which must exist in adjusting the views of international law, coloured by different national traditions, confused by conflicting national claims, and confounded by legal traditions deriving from different legal

<sup>1</sup> Cf. Hunter Miller, 'The Hague Codification Conference,' *A.J.I.L.*, vol. xxiv, No. 4, p. 693.

systems, and it becomes clear how painstaking a task the formulation of the rules of international law, even as regards a single subject, may be. Codification must then in the nature of things be an arduous and tedious undertaking, but the chief thing is that it must be continuous. One subject after another must be taken up and the process must be continued on and on over an ever-increasing range of appropriate subjects. The whole field of international relations must be constantly under survey, with a view to discovering those principles which have more clearly emerged or which are emerging with the growth of the world community itself, and in respect of which accordingly an agreed rule is regarded as necessary or advisable.

viii. *Codification to Include Amendment and the Making of New Laws.*

Holding as I do that view of what progressive codification involves, I should like to deal more particularly with this question as to whether the codification process should be applied to existing rules of law only. I know that some of our American friends who have been doing such excellent work in the cause of codification, and who are amongst the most enthusiastic of the supporters of the movement have been thinking that the work can be more successfully continued if its scope is limited. I cannot help feeling that the prejudice, if I may use the word, against a codification of international law which contemplates the amendment of old rules or the making of new rules *in vacuo* is a lawyer's prejudice, that it is not general, and that it is the result of the preoccupation of the lawyers with the history of the municipal law. I find myself unable to agree with Professor Baker's view that even a restatement of existing rules is

a matter 'for professional lawyers alone'.<sup>1</sup> When Professor Baker speaks of a 'jurists' code,<sup>2</sup> I must beg his leave to urge that the codification even of existing rules involves much more than the 'method of lawyers' commissions leading up to international conferences of lawyers which Oppenheim had in view'.<sup>3</sup> It involves the intervention of the politician and the statesman at every stage of the undertaking. And this is the point upon which I would like to insist, namely, that if the consent of the nations is to remain—as, of course, it must—as the ultimate legal criterion of the binding force of international law, the essential thing to secure is that the evidence of that consent be unequivocally clear. But the best evidence of such consent is the statement in an agreed form of rules, the substance and principle of which are also agreed. With that view the protagonists of codification of the existing rules only will not quarrel. But they will say that the making of a code of new rules—or a code containing new rules—on any subject at the present time will stereotype the law and make the development of rules appropriate to the world community impossible. I like to think that few of us would be the champions of new law as such—regardless of its public usefulness—but few of us also, I hope, would fail to be the advocates of new law that was found to be necessary or advisable in the interest of the general welfare of the world. I have always felt that the argument against the making of new law based on the ground that it prevents the 'organic growth' of law is itself based on the quaint and primitive idea that international law develops of its own accord, in spite of the

<sup>1</sup> *British Year-Book of International Law*, 'The Codification of International Law,' 1924, p. 44.

<sup>2</sup> *Ibid.*, p. 49.

<sup>3</sup> *Ibid.*, p. 44.

nations as it were, rather than by their conscious will. In a recent discussion Professor Niboyet distinguished 'le droit conventionnel' from 'le droit vraiment international'. He said: 'Le droit international s'impose.'<sup>1</sup> I confess that I do not understand how international law 'imposes itself' on the nations without their consent. If Professor Niboyet was thinking of a natural law of nations, or of the principles of natural justice, I could agree on the moral ground, but not on the legal. But he was in fact discussing positive international law. Is the argument against new law perchance the latest expression of that sub-conscious fear which manifested itself at international conferences during the last century, and forbade international discussion on any but the then universally recognized principles of general international law, lest by the cleverness of their neighbours States would be involved in new and dangerous obligations?

Precisely how formidable is the proposal that the codification of international law should extend to the making of new rules? In the first place, if codes containing new rules stereotype the law therein contained, will not codes containing the existing rules have the result of stereotyping those rules also, and stereotyping them just at that very moment when the greatest impetus ever given in human history to the movement towards a rule of law in the world is being increasingly felt? But is not the truth of the matter this, that a clear statement of the law may have the effect of preventing the stereotyping of a rule in a confused and an uncertain form? And if some of the existing rules are out of touch with the life of the world community, with what its needs demand, is anything more terrifying than that

<sup>1</sup> *Bulletin Mensuel de la Société de Législation Comparée*, Avril-Juin P. 347.

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the lawyers should force them upon us? And, furthermore, is not the idea that codification destroys development not answered by the fact that no code is or can be unchangeable? Is not this difference between a codification of existing rules and a codification containing new rules entirely over-emphasized in the minds of those who make it? There is hardly any subject you can take of which it can be said that every part and aspect of it is covered by previously existing rules, and if you proceed to write down the law on that subject you will find that you pass readily from the sphere of undisputed rules to the sphere of disputed rules, and from both to that in which no law exists at all. The experience of the First Codification Conference was that every attempt to confine the scope of our work to a statement of the existing law was opposed, and that the use of the word 'declaration'—in the sense of a declaration of previously existing principles—was deliberately abandoned. The Convention on Certain Questions Relating to the Conflicts of Nationality Laws—the only Convention concluded at that Conference—was formulated regardless of whether the articles therein contained declared the existing law or made new law. Article 18 states that 'the inclusion of the above-mentioned principles and rules in the Convention shall in no way be deemed to prejudice the question whether they do or do not already form a part of international law'. Addressing the eighth plenary meeting of The Hague Conference, M. Giannini said:

'This Conference has shown very clearly that it is impossible simply to codify the principles of existing international law. We are encountering the same difficulties in the codification of public law as are daily being experienced in the codification of private law. The old view, which merely consisted in preparing

conventions to settle the conflict of laws, must be discarded. Whether we wish it or not, we are compelled to lay down rules in regard to the substance of the questions dealt with, or to adopt systems based on compromises, for the purpose of settling the conflict of laws. Such systems, however, are bound to touch upon the questions of substance.

‘Above all, in this matter of the territorial sea, we discovered that the mere recognition of existing international law is not enough for the needs of modern life. We must have the courage to devote time to the question and to draw up conventional rules in regard to which the individual States must be prepared to agree to compromises in the general interest, this general interest coinciding with the national interest. International interests cannot be regarded as the antithesis of national interests.’<sup>1</sup>

The nations should not be put in the position of having to say: ‘Here is a new rule that is obviously necessary or obviously desirable; but we cannot include it’ simply because the lawyers do not think it right or because it is outside the scope of the codification mandate. How can it be outside the scope of the codification mandate? It is the nations themselves that have issued the mandate. Progressive codification, the policy of the League, is also the policy of the nations, and when the word ‘progressive’ was used I cannot help thinking that it had some reference to the progress of the law itself as well as to the codification of the law, and that what was really meant was progress through codification, or, as M. Henri Rolin put it at The Hague Conference, ‘a codification which is progressist’. And if the nations decide that new law is necessary in regard to any subject submitted to the codification process, why should they not create new law accordingly? I do not think that

<sup>1</sup> *Acts of the First Conference*, vol. i, Plenary Meetings, p. 52.

you will increase the prospect of successful codification one whit by limiting it to the existing rules of international law. All that you will do is to give colour to the contention that the whole project is one for the lawyers, with the result that your discussions will fade out as they frequently did at The Hague in orgies of transcendental logic or in intellectual carousals in those rarer regions to which academic disputants are so easily wafted on the facile wings of their own abstractions. It may be that the codification of the law relating to a particular subject will amount to no more than a restatement of the existing rules. On the other hand, it may require amendments of the existing rules, either by way of variation or omission or addition. You cannot be sure until the examination of such subject prior to codification is completed whether any amendments, and if so, what amendments of the existing law will be required. But the chief thing is that such amendments should not be excluded as being outside the scope of the code-makers' function. I do not think it likely that you will have any sudden springing into life of new principles *in vacuo*, and that so far as the general law is concerned—as distinct from law relating to very special subjects like those upon which codes of new law have recently been made—the present is likely to become the 'spontaneous generation' of new legal principles covering spheres of international life not heretofore covered by any international law at all. But in the course of its development the world community will inevitably call for an extension of the application of old principles to new circumstances as was done, for example, by Article 22 of the London Naval Treaty, 1930, and for the creation of new reciprocal obligations amongst the nations. Will it not be right that the scope of the extended application or the

substance of the new obligation be clearly defined, and that the evidence of the consent of the nations be placed beyond the bounds of controversy?

ix. *Proposals for a Codification Committee.*

These, then, are some of the principles upon which the codification method must be based:

- (1) Codification must be viewed as a task involving decisions by the nations on large issues of policy;
- (2) It must be continuous; and
- (3) It must include the making of new rules.

There are other principles no doubt: the method must, for example, contain some machinery for the reforms of the codes either periodically or upon the falling out of an agreed contingency. The procedure to be followed is a matter for the Assembly to decide. In the Report of the Secretary-General, published on the 15 June of the present year, it is stated 'that the task of the Assembly would be greatly facilitated if it had before them positive suggestions as to the organization which should be adopted and the procedure which should be followed'.<sup>1</sup> Having stated the principles upon which I think the future procedure should be based, it is incumbent upon me, I think, to go farther and make a positive suggestion as to the organization to be adopted. In framing the suggestion which I am about to make, I have not found it necessary to seek examples of businesslike organizations outside those already set up in other spheres of international co-operation by the Assembly itself. It will be agreed, I think, that the Preparatory Commission

<sup>1</sup> *Secretary-General's Report*, Official No. A. 6. 1931, p. 33.



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for the Disarmament Conference and the Committee of Arbitration and Security have done their work extremely well. A Codification Committee constituted on similar lines should, I think, be established. I make, therefore, for the consideration of the Institute, the following proposal:

- (a) A Committee should be set up, similar to the Preparatory Commission for the Disarmament Conference or the Committee of Arbitration and Security, i.e. it should consist of representatives of Governments, who would possess the necessary technical qualifications. Steps should be taken to ensure that the different civilizations and legal systems would be represented on the Committee, which should also include representatives of the principal States non-Members of the League.
- (b) It would be the function of this Committee to make proposals to the Assembly at its annual session with regard to the subjects on which general acts or conventions might be prepared. The choice of those subjects would be made by the Committee with special regard to the likelihood of a successful codification of law in relation to them by the method now proposed. Such proposals should be accompanied by explanatory memoranda, and should be in the hands of the various Governments in sufficient time before the opening of the Assembly to enable them to give definite instructions to their delegates, both with regard to the desirability of preparing general acts or conventions with regard to the subject-matters proposed and with regard to the principles or rules which any general acts or conventions dealing with these matters should embody. The proposals of the Committee should be considered by the First Committee of the Assembly.
- (c) If the First Committee and the Assembly approved the proposals, the Committee should be instructed to prepare

for submission to the Assembly at a future session general acts or conventions dealing with the proposed subject-matters.

- (d) The Committee should then proceed to the preparation of draft general acts or conventions dealing with the approved subject-matters. It would be for the Committee to decide whether specific questionnaires should be addressed to the various Governments before the Committee proceeds to draw up the texts of the draft general acts or conventions.
- (e) The texts of the draft general acts or conventions prepared by the Committee (together with the answers to the questionnaires, if any) should be communicated to the Governments in sufficient time to enable them to give definite instructions to their delegates on the First Committee of the Assembly with regard to the draft general acts or conventions.
- (f) The draft general acts or conventions drawn up by the Committee should then be considered by the First Committee. As a result of this consideration, the First Committee may decide to refer back these instruments for reconsideration by the Committee in the light of the views expressed by the delegates of Governments at the First Committee; or it may decide to ask the Assembly to approve these instruments and to recommend their definite acceptance by the Governments.

If the Assembly approves the instruments, they should at once be thrown open for acceptance by States. Acceptance of the general acts or conventions approved by the Assembly would be by means of accession, as in the case of the General Act of 1928 for the Pacific Settlement of International Disputes. Their provisions would be expressed to apply only as between the parties to them. They would contain saving clauses relating to the existing principles and rules of international law, similar to those inserted in the instruments concluded at the First Codification Conference held at The Hague in March–April 1930, and they would also contain provision for their periodical revision.

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The result of the proposal which I have outlined would be that the whole field of international relations would be brought under review by the nations and constantly kept under examination with the definite purpose—consciously and collectively pursued—of reducing the practice of States in which most of our international law has been evolved and will continue to be evolved to a definite legal form. I do not say that all inter-State relationships ever can or ever should be put upon a legal basis. None of us can see ‘a development of international law which would make it possible for all relations between States to be handled in accordance with law’.<sup>1</sup> But where a practice has existed or is growing up, it will fall within the scope of the Codification Committee to examine it, to collate it with others, and where possible to frame a rule that will fit into the general body of rules of international law. A process of codification, conducted on these lines, places the expert and the man of affairs in their proper relation to each other, and, to quote the words of that distinguished friend of codification, M. Alvarez, ‘with the help of this twofold work—scientific and practical—great progress can be achieved in the work of codification and some contribution made by this means towards the realization—at least in part—of the great aspiration of the nations for the firm establishment of peace, the triumph of international justice, and that greater confidence and unity which should exist between States forming the community of nations’.<sup>2</sup>

Consider what great authority would lie behind a state-

<sup>1</sup> Manley O. Hudson, ‘The Administration of International Justice,’ *Problems of Peace*, Fifth Series, p. 184.

<sup>2</sup> *Acts of Conference for Codification of International Law*, Plenary Meetings, vol. i, p. 45.

ment of law elaborated in that way, I mean the authority behind it even before it is acceded to by a single State. It would have been prepared by the Codification Committee after the most careful examination and discussion, it would have been passed by the First Committee of the Assembly, and it would have secured the approval of the Assembly itself. True, it would be authoritatively binding only as between the States who accede to it. But I agree with Dr. Guerrero that when a code convention is concluded 'an appeal will certainly be made to this convention as embodying international law'.<sup>1</sup> We are all familiar with the history of the General Act. The work of codifying international procedure was carried out by a number of States which believed that the codification of international procedure for all disputes whatsoever was desirable. Those States were a minority, but none the less they considered that their views should be embodied in an Act which would be given the authority of the whole Assembly, and which would be open to accession by all States. And the increasing success of the General Act shows how completely right those States were. When an Act or a Statute has the authority of the Assembly behind it, the tendency will be for States to accede. And as the number of accessions increases, 'the moral weight of their formulated opinion is'—as was said many years ago—'with difficulty resisted by a dissentient minority of the nations'.<sup>2</sup> But you may ask what, in the event of a dispute, will be the position in law of the States who do not accede? Suppose the dispute takes place between a party to the code and a non-party, will the law to be

<sup>1</sup> *Acts of Conference for Codification of International Law*, Plenary Meetings, vol. i, p. 33.

<sup>2</sup> Holland, *Studies in International Law*, p. 60.

administered by the Permanent Court of International Justice in deciding the issue be the law of the code as such? I distinguish. It would be clearly wrong for the Court to hold a non-party bound by the code. In that sense the Court would not administer the code law as such in deciding such a dispute. But if the rule or rules relating to the facts of the dispute already form part of the custom or practice of States or part of international law apart from the code, no injustice can be done by a decision of the Court holding that the parties to the dispute, although only one is bound by the code, are both bound by the same principle whether the criterion of its binding force be consent formal and express or consent tacit and implied. Suppose, however, a code contains a new rule of law, a rule not already binding on any ground, what would be the position of a State not party to the code in the event of a dispute covered by the new rule? Dr. Guerrero, in a passage containing views differing somewhat from those expressed by him at The Hague Conference, provided the answer to that query. 'Doubtless', he says, 'States which would not participate . . . in the creation of a juridical international rule would in no way be bound by that rule; but it is none the less true that the moral force which an international rule would have . . . would exercise a power of attraction to it which would be such that it would be difficult, perhaps even dangerous, to disregard it and to resist the principle which it enshrines.'<sup>1</sup> It is unlikely, I think, that any rules of law would be created by the method suggested other than rules refusal to recognize which would not sooner or later very seriously involve the international position of the State

<sup>1</sup> *La Codification du Droit International: La Première Conférence*, p. 24.

which so refused. I agree, however, with the view of Dr. Guerrero that the ideal to be aimed at is such general acceptance of the codes by the States as will amount to a practical unanimity. And this I claim is not too much to expect from the method of codification to which I have adverted.

*x. Conclusion.*

The League of Nations cannot afford to postpone this task. Failure to continue it and failure to adopt and apply a method from which tangible results may be expected within the next few years will constitute the greatest setback which the world community, and indeed the whole idea of international co-operation within the League of Nations, have yet received. We are at this moment witnessing a transformation in the political order of the world as profound and as vast as that which took place with the passing of the Middle Age. International law as it exists to-day is in great measure the product of the causes which transformed the political order of Europe in the transition from the Middle to the Modern Time. If there existed in the Middle Age, as I think there did, any juridical organization of peoples, it was an organization in which one community was subordinated to another and all depended in the last resort upon the authority of a Supreme Ruler, whether Pontiff or Emperor. But there were in that system definite cohesive forces, the classical tradition, the Roman Law, Christianity itself, and that sense of solidarity which was at once the cause and effect of successful resistance to the invasions of Islam. I beg leave to assert that until the establishment of the League the nations had never since been so close together as they were in that Age. Having broken with the Pope and the Emperor, having broken that

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is with the systems in which obligations were one-sided and not reciprocal, the nations proceeded to break with the idea of obligation in their relations with each other. The idea which then emerged, that of co-equal independent communities, was the idea which to this moment has dominated international politics and around which has grown up the system of international law which has passed down. Long before 'the synthesis'<sup>1</sup> of the vast transformation which had taken place at last found its legal expression in the Treaties of Munster and Osnabrück, Vitoria and Suarez had sought to construct on theological principles a theoretical basis for the relations which in their view should exist between the disrupted political communities of Europe. But against all such principles the centuries in which they lived were in revolt. If their efforts marked an epoch, it may not have been as the beginning of modern international law, but as a brilliant attempt to found a code of international conduct upon the tenets of the fundamental Christian ethic. From them to Gentilis and Grotius, from a theological to a philosophical conception of international law, juristic theory passed by an easy but in the event ineffective transition. True, the doctrine of a natural law of nations received in the hands of Grotius a new orientation, and to the content of that doctrine the new element of a consensus of peoples was added. But the law of nations which he contemplated derived its binding force not from that consensus itself, but from its own conformity with a law of nature. Pufendorf in the seventeenth century, de Vattel or De Martens in the eighteenth, took the matter no farther; and when the nineteenth century saw the attempt to break down the political frontiers and to unite the nations in one great

<sup>1</sup> Anzilotti, *Cours de Droit International*, 1929, Gidel, p. 29.

social organization, the social tide broke against the rigid individualistic theory of the State upon which the political frontiers were reared and round which the system of international law revolved. Thus the international law which has come down to us is in great measure the product of those causes which transformed, I do not say reformed, the political order of the world when the Middle Age was done. Once again we are witnessing a transformation as deep and as vast as that. And if our eyes are seeing the transformation aright, does not the prospect before them open upon one road and one road only—namely, the road along which international law must be the rule? If the theologian, or the philosopher, or the unofficial code-maker of past centuries did not create a rule of law for the nations, at least they sought to create the standards to which the conduct of the nations in their ordinary dealings with each other should conform. The official code-makers of the future, the nations themselves, will have it in their power to lay down the rules, and, if not at one and the same time, at any rate by one and the same means to secure agreement for them. If they succeed the world community will go forward steadily and surely to its fulfilment, its members bound together, not, like the peoples of the Middle Age, by the bonds of a common allegiance, but rather, like them, bound together by the memory of a common sacrifice and the menace of a common danger—bound, above all, by the consciousness of a common obligation.



## CHAPTER VI

# EUROPE AND THE WORLD COMMUNITY

Professor ALFRED ZIMMERN:

**M**Y title 'Europe and the World Community' embodies two watchwords, neither of them corresponding to realities in the present-day world.

There was a time, before the invention of the mariner's compass, when the term 'Europe' had real significance. But history never turns back, and 'Europe' is no more helpful to us to-day in our political thinking than 'the Holy Roman Empire' or the 'Southern Confederacy'. This can best be realized if we turn our attention first to the other half of our subject, 'the world community'.

There is no 'world community' in existence to-day. To speak as though there was is to degrade the meaning of the word 'community'. Community implies a certain degree of common consciousness. Such a common consciousness does not exist in the world at the present time. The best test of that, if a test is needed, is the response of the peoples of the world to the present economic depression. The material forces that have brought it about are world-wide. The response to the havoc of those material forces has been an intensification of local policies. The peoples have not reacted as one world society to the catastrophe that has overtaken them. Another testimony to the same effect is the failure of the peoples to make adequate use of the international institutions framed precisely to meet such an emergency as this. Had there been a world community, we should all have become more conscious, at such a time

as this, of our interdependence. The peoples and their Governments would have gone to the help of those in need just as, when some natural catastrophe overtakes a real community, some earthquake or great storm, there is an immediate rush to help. There is to-day no 'world consciousness'—there are only a number of separate consciousnesses. We are told that we are passing through a *crise de confiance*, that what is really wanted is more confidence between the various Governments and the peoples, between buyers and sellers, and between borrowers and lenders. But what is confidence but the earliest stage, the most elementary stage, the very beginning, of a common consciousness? And that confidence is to-day lacking.

i. *What is a Community?*

Let us consider briefly what a real community is. Everybody is familiar with a local community—a village or a town. It was in the old Greek local communities (the so-called 'city States') that the practice of community life was first consciously developed and its theory first worked out. Later the city grew to the territorial state, and we have in the States of to-day, whether great or small, a common consciousness in the form of common citizenship, a sense of obligation, and a common public opinion that run right through the State and cause every citizen to react more or less like every other citizen. A very good example of that is Great Britain, compared with the old 'United Kingdom' as it existed before the war. When Ireland was part of the Parliamentary system of Great Britain, Irish public opinion never reacted in the same way as the public opinion of the rest of Great Britain. England and Scotland and Wales formed, and form, a real community. The Irish

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Parliamentary Party was a thing apart, and public opinion in Ireland was always distinct. Relations have been very much happier since two distinct political communities were formed to correspond to the psychological communities which already existed.

Another recent example of the working of a community mind is Spain. On a certain day in April the King of Spain decided to abdicate. At once, in spite of the very unexpected nature of the crisis, something like an electric current pervaded the entire country, and when the elections came it was found that the whole of Spain was thinking and feeling alike on that point. Spain is a real community with a real 'common consciousness'.

You get the same on a smaller scale in a school or institution. You get it in professions; for a community does not necessarily require a territorial basis, and we are familiar with the phrase 'the communion of saints'.

### ii. *The Nature of the Future World Community.*

Now all these groupings imply some degree of intimacy, some degree of common sentiment, a habit of thinking and feeling together—the sense of something worth while that the members of the community hold in common. Will there ever be a time when the whole world is a community in the sense in which Great Britain, Spain, Switzerland, the American negroes (that is, a community within a community, but a very distinct one), Oxford, philosophers throughout the world, miners and musicians, form communities? In my own view it is inconceivable that there ever will be a world community in any true sense of the word 'community'. There will only be a world community, so to speak, by analogy. It will be a community in two degrees.

It is to delude ourselves with a slogan to imagine that the world will ever arrive at a stage when the ordinary individual in one country will understand, trust, and feel at home with the common man in other countries—when the ordinary Irishman will feel perfectly at home with the ordinary Chinaman, or the Spaniard with the Australian, or the Englishman with the Siamese.

The world community, if it ever comes into existence, will not be a community of individuals, one in which the ordinary Irishman, the ordinary Peruvian, the ordinary Japanese, feel and think together. It will be a meeting-point of representative individuals, themselves inspiring confidence, so that there will be a personal relationship between the representatives, thereby creating confidence on behalf of the communities which they represent. It will be a community of communities, composed of representative individuals.

It will be a 'community of communities', or, to use a French expression—'une Société des sociétés'. As I see it, three types of community will find in it their meeting-place. There will be territorial associations, functional or professional associations, and, thirdly, cultural and spiritual associations. It will be a meeting-place of Governments—ordinary Governments administering authority over given areas of territory; a meeting-place of communities of a professional character such as were instanced just now, whether it be of doctors or miners or labour in the larger sense of the word; and, thirdly, a meeting-place of persons who have certain cultural affinities or religious affinities.

The full development of human society looks forward to the unfolding of human activity in these three spheres—the territorial, the functional or professional, the cultural

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and spiritual—and their interlocking in a complex, interdependent, international organization, itself a community of individuals bound together by the tie of confidence and common purpose.

We can see this best in the microcosm of the small community, the village or the town. The village has its territorial local administration, and you can learn the lesson of public service in the local field in regard to taxation, roads, and so on. And that territorial sphere must be supreme, because it is the things that are common to all the persons within an area that are the natural basis of government and public organization; but side by side you have organizations like the Chamber of Commerce, local shopkeepers, local doctors and schoolmasters forming communities by themselves within the larger community; and, thirdly, you have the Churches and the cultural element, 'community' there being especially important in mixed areas such as what are called 'the minority areas' in Europe; sometimes the sense of cultural community is there developed even at the expense of territorial community. The local community is extremely important in social thinking, because it is the nursery of public spirit. It is the training-ground of democracy—the natural school of liberty. It is important for another reason: because the watchword of local citizenship is not Power; local areas are territorially side by side under a common law, as one day we may hope that the world will be. Local areas therefore cannot become involved in conflicts of power. There is no balance of power between the Cantons of Geneva and of Vaud, and the watchword in such a community of citizenship is therefore not 'Power' but simply 'Service'.

One of the best criteria of the civilization of a State is

the condition of its local government. Another, by the way, is the condition of women. Those two criteria are a very good indication of the degree of the civilization of a community. Does the local government of this or that country enlist and train the sense of responsibility in local units? It is one of the glories of Switzerland, as it is of Belgium and many other countries, to have developed and trained citizenship in such areas.

Now these microcosms, these small units, are the elements of the world community. The world community must be based on a growth from underneath; it must be the natural unfolding of organization, from the ground upwards, from the sphere in which the individual can learn at first hand what public service is. Just as personality precedes co-operation (you must *be* something before you can co-operate with others), so public spirit, the habit of thinking for others in terms of public service, must precede public organization, whether national or international.

What, indeed, is a successful modern Central Government, but a system for weaving together, co-ordinating, rightly using these interdependent activities—the territorial, the functional, and the cultural? Examine the working of the British Central Government, whether in Parliament or in the Government Departments where so much power rests to-day, and you will find an elaborate interlocking system bringing in all these different elements. A Central Government is most successful where it is most diversified and most flexible; in other words, where it has best adapted itself to the changing needs of all these different groups and which compose the minor communities within its bosom.

What, then, is a successful international system but one which fuses together and utilizes all these activities—terri-

torial, functional, and cultural—on the broader international plane, eliminating conflicts of power by fixing attention on service: service for the needs of each area, however small; service for the needs of each profession and activity; and service in providing freedom for every culture and every religion.

The object of world organization should be to provide a broad and international framework, permitting of infinite flexibility and infinite diversification, and avoiding, just as local administration does, any grouping which tempts to Power rather than to Service, which has the effect of encouraging people to think in terms of aggrandizement, rather than in terms of usefulness to the individuals within the area of which it is composed. The world community must be a community of many various minor communities, and the world organization must be an agency of decentralization and co-ordination, welcoming every new centre of activity, as a germ of fresh life—except only where such an activity would involve a conflict of power—welcoming them because they provide an adjustment to the living needs of the individuals and groups concerned. The world organization will not be a State in the old sense of an Empire or in the sense even of a powerful Central Government. It will be a Realm of Law, and at the same time an agency for enabling human beings and groups to be better fitted to render their own particular service across frontiers of State, class, religion, and other barriers. For we must never forget that organization is not an object in itself. The League of Nations is not an object in itself. Governments and 'Leagues of Nations' are simply instruments, and their sole purpose is to serve human needs, to set individuals free to find fulfilment in their own lives.

Now if you adopt the human criterion, if you put human beings first and Governments second, if you say 'The League was made for man and not man for the League'—and the same with all schemes of government—once you understand that fundamental principle in all political thinking, you will realize that schemes of governmental organization can never be rigid and mathematical because individuals and their national grouping are infinitely various; because we live in an 'untidy' world, a world with infinite varieties of race, colour, religion, temperament, habits of life—a world of great States and little States, such as the United States of America and Switzerland. The first duty of a political student, then, is to seek for the principle of life underlying the apparent disorder. Only when you have found that can you hope successfully to organize, to 'tidy up' just a little that which is untidy, to introduce an order which is the order and harmony of life itself.

iii. *Europe not a Unit.*

So far our argument has been on the plane of philosophy and sociology, since it was necessary to show how deep-rooted are the objections to the policy of European organization. When we consider the living realities of local government, or of the government of such a political community as Switzerland, we realize that the talk of European Union is not only nonsense, but dangerous and reactionary nonsense. For it is in contradiction with the whole development of the League, which is itself a remarkable exemplification of the theory of organization just put forward.

What distinguishes the League of Nations from the older



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political organizations, such as existed before 1914, is precisely its flexibility, its variety—what I may call its ‘catholic disorder’ and its extraordinary power of response to need. Compare the Covenant in its flexibility to the Constitutions, happily not of my own country but of many modern States. Consider, again, the constitution of the International Labour Office, introducing the great principle of the representation side by side with territorial representatives, of functional representatives—employers and representatives of labour organizations. Consider the actual work of the League. Is it desired to restore the finances of Austria? When Austria appealed to the League for help, did men look on the map to see in what continent ‘Austria’ was, and set up a ‘European Committee’ and an ‘Austrian Sub-committee’? No; the Financial and Economic Section was so organized, with the Council above it, as to be able to respond immediately to the need. Was it desired to establish a regional medical service in the Far East? It could be done without setting up an Asiatic Committee. A service was established at Singapore bringing together and serving the needs of a number of different communities. Was it desired to safeguard the rights of minorities in certain parts of Europe? It was not necessary to set up an Eastern European Committee; the League was so organized that the work could be undertaken immediately by the central authority. Arrangements can be made, owing to the flexibility of the Covenant and of the organization which has been worked out based on it, for any needs of that sort to be met, and no limit has been set to what the League may do and can do. When an attempt was made some years ago to define what was and was not within the power of the League, the committee that examined it dropped the project because they found it

impossible to arrive at a formula which would not exclude services which might usefully be rendered by the League. It provides both for the territorial and the functional activities, and even in some measure (through the Committee on Intellectual Co-operation) for the cultural; but always it provides for them on an international basis, because no framework in the field of public affairs to-day across the frontiers of States can be less than international. Within such an international framework there is room for an infinite variety of experimentation, for infinite elasticity, and for meeting the needs of the smallest as well as the greatest groupings and areas.

Now let us turn to Europe and examine what Europe might mean or be supposed to mean.

Europe is not a community. First of all it is not a political community. Strictly speaking, if you take the formal political classification, 'European States' include territory in every continent. Great Britain is part of Europe, and from London there are governed areas in every continent of the world; and not only from London, but from Paris also. Holland, Belgium, Portugal, Italy, all have large areas belonging to them in other continents besides Europe, and two great European States, Russia and Turkey, extend over the border between Europe and Asia. One of the great drawbacks of thinking in a European compartment is not simply that Europe is something wholly artificial, but that when you speak of 'Europe' you are cutting a number of real communities in two; you are cutting off British citizens in Europe from British citizens in Asia and Africa, and by cutting them off you are encouraging the Europeans to think that they represent something superior. In other words, you are turning back one of the most vital processes that is going

on at the present time, the very difficult effort to turn 'superiority' into 'partnership'—to adjust the relations between what was originally the conquest of India by England, or of parts of Africa by France; to transform a condition of subjection into a condition of equality and common citizenship. France and Indo-China are brothers, and should not be separated by being classed in two wholly artificial Continental communities. And the same, let us hope, is true and will remain true of relations of British citizens to British Indians, British Africans, British Americans, and British Australasians. That task of breaking down the chasm that exists between European and non-European civilization, and particularly between the civilization of industrial Europe and the civilization of India and the Far East, is one of the greatest of our time, and on its successful accomplishment more than on any other single thing depends the maintenance of peace in the world. In so far as the conception of Europeanism damages that work, it is doing injury to the cause of peace.

Moreover, those who talk about 'Europe' as though it had some political unity have generally not thought out what they are really seeking to bring about. Let me give an instance. Just about the time when the French newspapers and some of the French statesmen were speaking very freely about 'feeling European', another section of French opinion was celebrating the centenary of the French occupation of Algiers. When the President of the French Republic went to Algiers, he was received by an Algerian deputation which declared: 'We are no longer Algerians—we are Frenchmen!' Let us apply a little of the logic of our French neighbours to that situation. Every Algerian is a Frenchman: every Frenchman is a European: therefore every

Algerian is a European. So far, so good. It is but a step farther to say: 'Therefore Algiers is open, on the basis of the European Customs Union, to the trade of every European country.' Have the sponsors of 'European organization' thought out the effects of their schemes upon the development of colonial areas and colonial trade? I am not aware of any discussion on that subject among the many interesting treatises written on the problem of European Federation.

Let me say in passing, 'it is an ill wind that blows nobody any good', and the fact that a 'European' Committee has met in Geneva, and that it was compelled to consider what countries are or are not part of 'Europe', led to an invitation being addressed to the representatives of the United Socialist Soviet Republics. The contact thus established is at least one item on the credit side of the 'European' account.

But, to pass from politics, Europe is not a functional unit. No doubt there are certain common European interests. So it is often said; but they are not very easy to nail down. Railway transport, for instance, lacks 'European' unity owing to the wider gauge on the Spanish and Russian railways. There are, however, undoubtedly common interests due to geographical influences, but they are almost as hard to discover as the material interests which are common to the whole of the British Empire and no community outside it. If you analyse the so-called 'common material interests' of Europe you nearly always find that they are not purely European in the conventional sense, but that they overlap into other spheres, as, for instance, in the case of aviation.

Still less is Europe a cultural unit. It was so in the Middle Ages; and some speakers in favour of 'European federation'

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boldly say, 'Let us go back to the medieval unity and ignore all that has happened since'. We, however, are forward-looking, and we cannot ignore that a culture of European origin has spread across the oceans, with the result that there is now no single European culture, but that, like the old classical culture, it has passed into the cultures of a number of separate nations.

### iv. *A Myth or Economic Dictatorship.*

Thus, when people say that they have 'European culture', the words really have no meaning. What exactly does it mean to be a European? To live on the right side of the Bosphorus or the Ural Mountains? But that is a residential qualification which carries with it very little of the 'community sense'. Europe is not a community. It is a state of mind—and a state of mind to be encouraged. We feel 'European' when we react against other distinguishable influences from a distance—when we are irritated by Americans or Asiatics. The 'European sense' is a kind of defence-mechanism, or even sometimes a superiority complex. The only real 'European' group (that is, European and nothing more) are the *déracinés* from distant lands who live in Monte Carlo, the Quartier Latin, and even Geneva, and who have sometimes come from North America, sometimes from South. They are 'Europeans' because for them their own country and culture are not good enough, although they often draw dividends from companies which have some kind of territorial affiliation under some kind of Government. Aristotle said that a man without a community was either a god or a beast. I would put these Europeans on the lower level rather than on the higher. They are the victims of every new fad. One of their

advocates said to me recently: 'We need "Europeanism" because the League of Nations is not good enough; it is not easy enough, not attractive enough. We need a new religion.' Europeanism is the latest fashion in Messianism. People who yesterday were Pacifists of the Rivivalist School are to-day Europeans, and to-morrow no doubt will be Communists. That kind of thing is religion in the wrong place, and to bring such unthinking cloudy mysticism into the field of politics is unworthy of an age of general education and democracy. It is an application of the idea of a so-called 'advanced thinker' who wrote before the war, Georges Sorel, who said that in order to get more working-men to have advanced views, you had to provide myths and legends for them, and he attempted to do so. In an age when fairy-tales are out of fashion even for children, it is hardly the time to adopt them for adults. Both as educators and students of politics we are surely justified in protesting against those who say that 'Europe' is a convenient slogan because it makes a more facile appeal to the man in the street than the broader conception of the League of Nations or international interdependence.

But is not this movement of Europeanism a response to economic need? So we are told. An ex-Prime Minister of France, M. Herriot, has committed himself to a phrase unworthy of a student of literature and fine arts such as he is. It is odd that a man who could write a book on Beethoven should have penned this sentence: 'Le problème est de rationaliser un continent qui comprend aujourd'hui 35 états.' There are too many States—too many 'small shops' in Europe—and M. Herriot wants to make them into a Trust! Here we see how quickly you can move from the atmosphere of Mysticism to the atmosphere of

Business. 'Big business demands a large market, therefore we must eliminate the small State. Thirty-five eggs, from Esthonia to Portugal—break them up and make an omelette!' This is, of course, openly to declare that economic forces are to be predominant and that political forces must be adapted to them. Business is large-scale, therefore the State must be large-scale too. But this is to go clean contrary to modern development, to the principle of democracy which, as we have seen, is based upon the building up of public spirit in small areas—and to the history of democracy. It is a complete mistake to imagine that what is 'large-scale' is modern, and what is 'small-scale' is old-fashioned. It is the small-scale State which is modern. Switzerland is an anticipation, a prophecy, dating from the thirteenth century. It lived for centuries surrounded by large territorial agglomerations without politically self-conscious populations; but the typical States of the present age are the Irish Free State, New Zealand, Norway (peacefully separated from Sweden), Czechoslovakia, Esthonia, the Irak of to-morrow, and the Burma of to-morrow.

The formation of such States is a sign of the times. They are a testimony to the awakening of public spirit, of a sense of citizenship, of a desire to control the affairs among which one lives, among numerous populations which under the old system of large States were not self-conscious and not therefore (in Aristotle's sense) fully human, fully pulling their weight in the world.

On the other hand, as to the Europe of M. Herriot—if you look for its ancestry it is easy to find it—the Babylon of Nebuchadnezzar, the Persia of Cyrus, the Empire of Alexander, the Empire of Rome, the Holy Roman Empire, sixteenth-century Spain extending over the Netherlands; the

first British Empire which the ancestors of some of you helped to destroy; the Confederation of the Rhine and the unfulfilled project of Berlin-Bagdad. President Wilson condemned this last as 'a selfish economic League' because it corresponds to no real community and was based on the idea of providing a large market for German industry and turning the Bulgarians, Hungarians, and Turks into 'hewers of wood and drawers of water', second-class citizens for the benefit of the ruling German caste—partly manufacturers and partly working-men. Nevertheless, the Berlin-Bagdad project had the support of many so-called enlightened and advanced people, just the same kind of people who are now supporting 'European' idealism. It had its own mysticism, and its support extended into many circles of German academic thought.

Why are such areas bad? Because they take power and responsibility away from the natural seat of government, from the centre of real communities and hand them over to economic dictators, to bodies of people thinking only in economic terms. In a famous German book written in 1916, on which much of the present European thinking is based, you find a whole scheme of government of Europe by 'Economic Boards' situated in various parts of the Continent. The local governments are to be shorn of their power. Europe is to be a company, a Trust; it will no longer consist of communities governing themselves through citizens with a responsible sense of public spirit.

I do not wish you to feel that I am on principle opposed to all large States. A large State may be a community. The United States of America is a community. Nor am I opposed to all large-scale boards or administrative arrangements. The Inter-State Commerce Commission is a very



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useful piece of machinery, but it is useful because it is responsible to public opinion—because there is a body of people behind it to control it. The United States of Europe would not represent such a community, and it is either therefore a myth or it is a dictatorship, an economic dictatorship, a return to the kind of thing with which students of English history are familiar, ‘chartered company government’, which governed India up to 1858, which governed Rhodesia until yesterday, and which still goes on in British North Borneo.

### *v. Danger of Large-Scale Economic ‘Blocks.’*

But you say, ‘If you object to a European union based on the principle of having a large market against the wishes of the people, why not form a large-scale economic area or Customs Union, and maintain the existing Governments independently?’ The answer is: There can be no such thing as a non-political Customs Union. Customs Unions are not purely economic; they are inevitably also political. A Customs Union means a common tariff round the area in question, and a common tariff means a common system of taxation. Say ‘tariffs’ and you say ‘taxation’. And if you have a common system of taxation, you will have arrived at it by complicated diplomatic negotiation between different Governments. By whatever process you arrive at it you have a sort of government. It is a complicated and cumbrous and highly inconvenient form of government, and therefore very rare. In fact, when countries want Customs Unions it is generally because they are ripe for political union, because there is a real community there that is seeking political expression which for some reason or other is denied to it.

You cannot separate economic policy from taxation, nor taxation from social policy, because, as we all know, the question of who is to be taxed is one of the most important questions of social policy with which Governments are at grips. Once, therefore, you give to the authorities of a Customs Union the power to draw money from the pockets of taxpayers they will affect the standard of life of their populations. Thus a Customs Union is of direct material interest—that is to say, of political interest to the populations of the countries concerned.

Thus the resistance to Europeanism is not simply based on cultural grounds. It is also based on very pertinent material considerations. So we find that in spite of immense propaganda, the smaller peoples of Europe, for example the Swiss, distrust these new-fangled plans of dividing the world up into four or five large empires or economic blocks and handing over power to a few 'super-men'. They object to it for the same reason as the British Dominions have always objected to the setting up of an Imperial Secretariat. There is nothing in the British Empire comparable with the Secretariat of the League of Nations in spite of the fact that the British Empire is a real community, whereas the League is only an inchoate community. The British Dominions have objected to an Imperial Secretariat because they are afraid of being governed from a distance. The advocates of pan-Europeanism in their maps draw the British Empire as though it were an economic unit. Of course it is not. It is a community, not an economic unit; and it will never be an economic unit because the various political communities within the British Empire desire to retain control over their own social policy and over their own taxation. Therefore they will not come into this larger

Trust which some members of the House of Lords are trying to fabricate for them.

One further reason and I have done. Large-scale economic 'blocks' are dangerous for the peace of the world because they inevitably tempt nations to strive for more power and seek to attain to that mirage—economic self-sufficiency. The struggle for economic self-sufficiency is the post-war form of the old pre-war struggle for the balance of power. We are no longer balancing the Triple Entente against the Triple Alliance, but we are balancing oil supplies against rubber and cotton against tin. A world of small States with their own fiscal systems, even if those systems are protectionist, is a far safer world than a world of a few large empires inevitably drawn into competition and ultimate conflict with one another.

vi. *The Line of Progress.*

The idea that the world has advanced from small political areas to large empires as a prelude to reaching a final world State is a complete fallacy. It sounds logical to say: first the tribe, then the city, then the territorial state, then the continent, and then the world; but unfortunately it is not true to the facts. We shall never have a world State in the old sense of the word 'State'. There will never be in Geneva a mechanism comparable to the administrations centred in London, Paris, or Washington, because there will never be here a community of that size. We are moving away from large areas. The history of the British Empire in the last ten years shows it. We are moving to smaller areas, and the idea that to make an omelette of the thirty-five States of Europe is a step in advance to a world State is a misapplied piece of Marxian theory.

But of all the arguments against Europeanism the strongest is that its introduction was inopportune. It diverted attention from the real task in hand. It diverted the attention of newspaper readers and of a great many well-meaning people from the true comprehensive League of Nations policy of reducing economic barriers which was laid down in 1927. The policy of the World Economic Conference of 1927 was both comprehensive and flexible. It was perfectly compatible with special arrangements for particular areas, but, unlike Europeanism, it was based on the fundamental fact of international economic interdependence and on the fundamental principle of co-operation with international professional organizations, such as the International Chamber of Commerce or the International Federation of Trade Unions. The deviation which this excursion into Europeanism represents from the true League policy has resulted in the waste of a precious year's time, and has paralysed the League at a crisis when its services would naturally have been most in demand. Let us turn our backs on the deluded mystics and their calculating masters, and bend all our energies to the needs of the real world, which is the whole world. The 'World Community' does not exist, but we can, in so far as in us lies, help to make the Community of Communities which is the last hope of our civilization.

## CHAPTER VII

### INTERNATIONAL FINANCIAL RELATIONS

DR. PAUL LEVERKUEHN:

READING some years ago a book on the origin of institutions of commercial law, I came upon a footnote saying that in the opinion of a French scholar, one of the principal causes for the downfall of the Roman Empire was the depletion of the reserves of the monetary system. Too much gold and other precious metal was being taken to the Far East in order to pay for the luxuries which were imported chiefly from India and China. I do not venture to decide whether this opinion is correct; but it is interesting to observe that most likely Roman civilization was faced with much the same problems which, under a very different economic structure, are facing the world to-day.

To-day we know that the exportable wealth of a country is determined, and limited in its extent, by the excess of exports and services over imports. That is, in short, what is now generally known as the 'transfer-problem'.

How long have we been familiar with this problem?

It has for some time been recognized by economists and bankers and by some of the statesmen of the world. In 1921, Mr. Lloyd George and M. Briand publicly discussed it.<sup>1</sup> But it found very little practical recognition. The statesmen who were undoubtedly aware of the transfer problem did not hesitate to disregard it utterly in the Treaty of Versailles and in the London Settlement of May 1921, fixing the amount of German reparations.

<sup>1</sup> Harold G. Moulton and Constantine E. McGuire, *Germany's Capacity to Pay*, New York, 1923, p. 16.

The problem was first brought to the attention of, and clearly explained to, the general public in the study of Messrs. Moulton and McGuire on *Germany's Capacity to Pay*, published by the Institute of Economics at Washington in 1923. It formed the theoretical basis of the Dawes Plan. The Dawes Plan failed to give satisfaction and was superseded by the Young Plan. And the Hoover Moratorium has now suspended the Young Plan without having prevented the present financial crisis.

We can scarcely afford to smile at the Roman economists and statesmen who did not foresee nor prevent their financial disaster, if our statesmen are unable to formulate a solution of our own problems and to put it into effect. One of the reasons why they are unable is unquestionably that there is too little general knowledge and appreciation of the basic economic and financial facts and laws.

i. *Pre-war International Financial Relations.*

If we look back upon the centuries of *our* civilization for international financial relations, our eyes will first be attracted by the activities in international banking during the Renaissance period. The Medici, the Chigi, the Fuggers, financed the commerce of their time; they financed the Courts of the princes and their wars. They collected and transferred the amounts which a pious world contributed to beautifying the seat of St. Peter, until the protest which we call the Reformation stopped to a large extent the transfer of precious metal from north to south, and destroyed by thirty years of war the centre of Europe as a source of wealth.

At the same time, the seafaring nations, Spain, Holland, France, and England, drew wealth into Europe from newly discovered continents, from newly acquired possessions.

Aside from commercial transactions, the characteristic financial relation between nations in this period was the subsidy, the contribution of the wealthier partner in war to the ally of smaller means. There are the subsidies paid at the beginning of the eighteenth century in the Spanish War of Succession, those paid by the elder Pitt to Frederick the Great, and under the younger Pitt to the Empire of Austria. There are, on the other hand, the indemnities laid upon the losing party by the victor. Napoleon imposed them on the Continental States. The victorious Powers imposed an indemnity on France at the end of the Napoleonic Wars.<sup>1</sup> That no financial measures taken at that period were permanently injurious is apparent from the industrial development in which all European States participated in the nineteenth century. The wars of this century left no mark on the financial standing or circumstances of any power. There are no traces of serious financial troubles attributable to the Crimean War. The payment of the French indemnity of 1871 did not give rise to serious difficulties from the point of view of international trade and finance.<sup>2</sup> France's credit standing in the world remained entirely unimpaired.

Subsidies, indemnities, and loans extended by the Government of one country to that of another are in the strictest and most restricted sense of the word *international* financial transactions, transactions *inter nationes*.

It is, however, not in this sense that we are accustomed to using the term 'international finance.' The customary use of the term rather excludes these transactions and comprises only the lending or investing of money on the part of the private individual. Loans extended by private persons, with

<sup>1</sup> Leland H. Jenks, *The Migration of British Capital to 1875*, New York, 1927, pp. 31 *et seq.*    <sup>2</sup> Moulton and McGuire, *op. cit.*, p. 228.

or without a bank or banker as intermediary, to States, municipal bodies, or individuals in foreign countries; investments, by purchase, participation, or loan, in agricultural, railroad, industrial, or other ventures in foreign countries—these are the typical international financial transactions, or were at least before the war; but to the war and post-war period I shall refer later.

ii. *Some Misconceptions.*

Many people suspect something sinister in international finance. But international financial relations of the type just described are the necessary by-product of the extension of the industrial development of the last century from the countries where the industrial revolution began to other countries, particularly those outside of Europe; they are part of the mechanics of the growth and spread of Western civilization. These relations are of an accessorial character. They are capable of intensifying dangerous situations; they hardly ever are the origin of them, if they are not deprived of their original economic character. They become, indeed, a source of danger if drawn into, or used as, a vehicle of political aims.

That they are not necessarily, not naturally, fraught with calamity is readily seen in observing the development of some of the dominant countries of to-day.

The United States was, before 1914, largely a debtor country. Much of the growth of industry and of the transportation system of the country was due to foreign money, particularly English money. There is no record of any serious friction or permanent ill-feeling between England and the United States on account of financial relations, though the investors did not always derive only pleasure from their



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American investments; the loans to the Confederacy were a total loss; and loans to certain southern States contracted before the Civil War still figure on the list of unredeemed obligations kept by the Council of Foreign Bondholders in London. Every major railroad company went through the process of reorganization, which means invariably loss to the investor.

The United States is now among the creditor nations. It is the largest creditor of Canada, even larger than England.<sup>1</sup> The progress of Canada's economic life would be seriously impaired without the influx of capital, and no danger to the peace of either of the two countries can be discerned.

Japan took its first foreign loan in London in 1870. Sixty years sufficed to change a small feudal island empire into a great modern Power. Not only was the economic structure of the country entirely transformed, but its political aspirations were at the same time extended to the continent of Asia. To-day Japanese members are participating in the councils of financial experts in Europe.

The transition of Japan was vitally assisted by foreign capital, chiefly British. 'About half its total public debt in the years before the war was foreign debt.'<sup>2</sup> It is still a borrower abroad, mostly in London and New York.

### iii. *Security for Investments and Security for National Interests Abroad present Different Problems.*

The United States, Canada, and Japan were and are borrowers of basically sound economic standing, the type of

<sup>1</sup> Robert W. Dunn, *American Foreign Investments*, New York, 1929, pp. 57 *et seq.*

<sup>2</sup> Herbert Feis, *Europe the World's Banker, 1870-1914*, p. 422.

risk that any investor might like to take or his banker recommend him to take, though some exception has here to be made for part of the earlier investments of the United States. The standing of the borrower is generally the first concern of the investor in considering the risk which he is called upon to take.

Why should anybody invest his money at all outside of his own country? Because he expects a higher return for his money or a considerable future appreciation in the value of the security or enterprise in which he invests than he can ordinarily count upon in his home country. But he receives the higher return or appreciation only in proportion to the risk which he takes. This element of risk is too frequently lost sight of—nobody can count upon 10 per cent. interest in one place when in another place the rate is 1 per cent. or less, and expect at the same time to be able to withdraw his money whenever he wishes, or to find himself absolutely insured against loss or inconvenience. The accumulation of great fortunes has never been solely due to ability, but in equal measure to the willingness to take a risk; and this principle applies to all gains under the so-called capitalist system—the higher the gain, the greater the risk, and vice versa.

So in principle the British Government did not care where the investor made his investment, and whether he lost it where he risked it.<sup>1</sup> By certain legislative measures it sought to attract capital to the British Colonies and Dominions which were, however, in any case, the natural preference of the investing public. Otherwise it carefully avoided urging the investors and banks to take up risks in particular countries lest it should be held responsible for possible

<sup>1</sup> Jenks, *op. cit.*, pp. 115 *et seq.*, 283 *et seq.* Feis, *op. cit.*, pp. 83 *et seq.*

failures or be forced into taking political steps which it did not feel inclined to take.

The pure money risk, I think it can be stated, hardly ever gave cause for political friction, i.e. the investment which consisted solely in the granting of loans to foreign Governments, municipalities, or individuals. It was different with investments which involved the purchase or control of foreign enterprises and the contribution of individual effort on the part of British citizens. With the 'Civis Romanus sum' attitude of Palmerston days backing him, a Britisher could count on protection for his life and property wherever he went if, in the opinion of his Government, the rules of international law had not been observed towards him in a foreign country.

Here, however, we are already leaving the field of international finance, strictly speaking, and are entering the wider fields of colonization, and of the immediate efforts of the nationals of one country within the boundaries of another.

In the case of the Transvaal Republics, for instance, the British Government felt not only that a vast investment of money had to be protected, but that national interest quite apart from purely economic considerations justified and demanded the taking up of arms.

Again, England was drawn into Egyptian affairs by the proximity of the Suez Canal, the highway to India and the Far Eastern Dominions and possessions, which were endangered by unstable conditions in Egypt.<sup>1</sup> This reason was a purely political one, and would probably have been sufficient, even without the British financial investment in the country. The finances of the country were in a ruinous state. The Khedive's Government and his personal luxuries had drained

<sup>1</sup> Feis, *op. cit.*, pp. 382 *et seq.*

the resources of the land. He had taken money from foreign lenders wherever he possibly could. British control of the administration not only restored the credit standing of Egypt, but taught the country for the first time the lessons of sound and honest administration.

There is a great deal of criticism of the control by one country of the administration and finances of another. It is, of course, an entirely unnecessary and very harmful act if organizations of control are put into a country which is well able to look after its own affairs and has shown its ability to do so. Before 1914 not even a country as shaken by revolution and unstable in its administrative functions as Portugal was required by its creditors to accept control commissions. It was different with the countries which were severed from the Turkish Empire. Turkey had for centuries degenerated in administrative ability. The provinces had been governed from a centre alien in race and nationality. The capital had deprived these outlying areas of their own Governmental institutions and guarded against their entrance into the administration.

Egypt is to-day on the road to increasing independence. I do not think that the period of British administration can be listed as an instance of the harmful effect of international finance. I am prepared to believe in the sincerity of purpose of men like Lord Cromer, and in his honesty, when he sums up his work in Egypt in the words:

‘Quod regnas minus est quam quod regnare mereris.’<sup>1</sup>

iv. *British and American Policies.*

Next to the investments within the Empire, and only slightly higher in amount than the investment in the United

<sup>1</sup> Lord Cromer, *Modern Egypt*, London, 1906, end of second volume.

States, were the British investments in Latin-America, aggregating approximately four billion dollars out of a total foreign investment in that region of approximately six billion dollars. Despite occasional heavy losses which, for instance, in the early 'nineties shook the London money market severely, the relations between debtors and creditors were generally quite satisfactory. The policy of the British Government was not always consistent. Pressure was exercised at times, force was displayed, but as a rule the practice of letting the investor take care of himself and his troubles prevailed.

A strong influence against Governmental interference in Latin-America, not for England alone, but for other Powers as well, was unquestionably the Monroe Doctrine. This Doctrine put a check on the transgression from the financial and economic into the political field. Its logical consequence—that the United States should supply the protection which it prevented others from giving to their own interests—has, however, never been consistently recognized.

The attitude of the United States with respect to the interests of its own citizens in Latin-America has varied a great deal, dependent largely upon the political aspirations and ideas of the administration in power. Diplomatic and armed intervention has been severely criticized whenever it occurred.<sup>1</sup> Comparison of methods of negotiations between the American and Mexican Governments, used in 1913-14 and in recent years, makes it appear as if armed intervention had been definitely abandoned. Relations between the United States and Latin-American countries are to-day not *international* financial relations any more—they are inter-

<sup>1</sup> Scott Nearing and John Freeman, *Dollar Diplomacy*, New York, 1925.

American relations, depending entirely upon the attitude which the people of the United States or their Government choose to take.

The American Government has been, and still is, more solicitous for the foreign trade of the country than the British Government used to be, and consequently it has taken more pains to watch over foreign interests, including purely financial investment. The spread of American foreign investment is to-day probably quite as diversified as the British, with a preference for the American Continent and Europe, and, compared to England, a neglect of Africa. A control of investments seems a practical impossibility, though the State Department desires to exercise it at least so far as to close the American market to investments which it considers politically undesirable.

*v. Germany's Pre-war Foreign Investments.*

In pre-war financial transactions, German activities made themselves felt to a considerable extent though apparently very much overestimated in their volume and effect. German foreign investments amounted in 1914 to little more than five billion dollars, as compared to approximately eighteen billion dollars British and nine billion dollars French foreign investments. This German investment was almost equally divided between European and non-European countries, while only one-seventeenth of the British foreign investment was placed in Europe. German financial competition in opportunities outside of Europe was, therefore, negligible for England; less than three billion dollars as against more than seventeen billion dollars.

Germany needed her capital at home for an increasing population and a growing industrial equipment. The finan-

cial resources of the country were well centralized in a comparatively small number of active banks which influenced, if they did not determine, the flow of capital. Yet this German capital abroad was widely scattered. In no single country of Europe, and on no single continent outside of Europe, did it reach the billion dollar mark.<sup>1</sup> Despite a prevailing conception to the contrary, substantially more than half of the foreign investment was in fixed interest-bearing securities, especially the bonds of foreign Governments. That would leave approximately two and a half billion dollars for investments which represent an active participation in risk and enterprise abroad, the competitive type of investment.

The German Government's attitude towards investments abroad was one of careful watchfulness. Undesirable loans were in an informal way turned down. Where German industry and commerce might find new opportunities, German capital was invited to support them, though such invitation was not very frequently needed in view of the close connection between the banks and the commercial and industrial interests. German capital abroad, small and widely scattered as it was, affords an example of what I have called the accessorial character of international finance. It was only part of the general economic outward movement of a nation which, to feed its population and its industrial machine, had to rely on imports, and in order to pay for the imports had to push its exports and every other means of acquiring the amounts for paying for the imports. In the years 1911 to 1914, the revenue from foreign investment amounted to approximately 3 per cent. of the total national income, but only two-thirds of this revenue were reinvested abroad. British income from foreign investment approximated in

<sup>1</sup> Feis, *op. cit.*, Chapters III and VI.

1913, 10 per cent. of the total national income; nine-tenths of it was reinvested abroad.<sup>1</sup>

vi. *French Transactions before the War.*

Next to Great Britain, France was the largest international lender before the war, absolutely, the largest lender to European countries. Of a total investment of approximately 9 billion dollars, 5·5 billion dollars were invested in Europe; of the rest the greatest portion, 1·2 billion dollars, in Latin-America.<sup>2</sup>

In Russia were placed 2·26 billion dollars, one-fourth of the total French foreign investment, the largest investment that any single country had in any single other country. There followed classed according to size: Spain and Portugal, Turkey, the Balkan States, Austria-Hungary. Not the best risks, one would think, reasoning from an economic point of view. But they were not meant to be judged from an economic point of view. As an American writer explains: 'French foreign lending was not dominated by careful, objective measurement of economic opportunity. Guided and often controlled by government and the opinions of the financial institutions, it was swayed by antipathies and sympathies, traditional, emotional, political. These bound it to the countries of the Latins and Slavs. To retrace the history of French foreign lending would be, as a French writer had said, almost equivalent to writing the history of French political sympathies, *rapprochements*, vague dreams of influence, alliances in arms.'<sup>3</sup>

To prevent the savings of the nation which sought employ-

<sup>1</sup> Feis, *op. cit.*, p. 16.

<sup>2</sup> Feis, *op. cit.*, Chapters II and V.

<sup>3</sup> Feis, *op. cit.* (Lecture of M. Aupetit in *Les Grands Marchés Financiers*, Paris, 1912), p. 50.



ment abroad from turning into undesirable channels, close supervision of the stock exchange and its listing facilities by the Government, as provided in French law, was for the most part sufficient. To turn the savings into the desired channels, intimate co-operation with the banks and a patriotic appeal to the investor were of decisive importance. He had not the experience and personal contacts abroad to guide him in his investments and to form his own opinion about them which the English capitalist, and to a lesser degree, the German, possessed. He was more amenable to advice by the banks or the Government, more readily prepared to let historical or political considerations prevail.

French industry had not the advantages of so early a development as the English, nor did it grow as rapidly as the German. French foreign investment was called upon to make good these deficiencies.

The loans to Russia and the Balkan States filled both purposes. They brought orders to French industry; they suited the political situation. They further served military preparations. In 1901, Russia promised to devote the proceeds of a loan primarily to strategic railways, the loans of 1913-14 were made 'conditional upon an increase in Russian military strength and the construction of certain strategic railways'.<sup>1</sup>

Such intimate co-operation between the Governments of two countries, such complete command by a Government over the savings of the nation, and such disposition of them in favour of an allied nation scarcely fall under the term of international finance. It is inter-allied finance, exclusive of other nations and their financial resources or their needs.

<sup>1</sup> Feis, *op. cit.*, pp. 219, 140.

vii. *The Far East.*

Japan has been mentioned above as a country whose transition to Western industrial methods was achieved without loss to its national integrity and freedom of action. Japan was a unified nation, with a capable population willing to adjust itself to new conditions, headed by a strong, purposeful Government, otherwise it would probably have shared the fate of other less fortunate countries.

A discussion of international finance would be incomplete without a brief commentary on Persia, China, the Turkish Empire, and the Balkan States. The history of Persia,<sup>1</sup> reviewed from the financial aspect, has little to record. There would undoubtedly have been sufficient capital available to build railroads and develop such industries as the country would support. One industry was, indeed, developed—the oil industry; but that is one which is of comparatively little interest to the country itself. It gives employment to a small number of people, touches only the outlying districts, and its products do not benefit Persia but other Powers and their interests, serving as fuel for the merchant marines and for the British Navy, which, through the Anglo-Persian Oil Company, exercises a direct control over these resources. The political rivalry between Russia and England prevented all other activities. Here we have the peculiar spectacle of the British Foreign Office, more than once, interfering with the financing of ventures in Persia. It was left to the Russian Government, though with the approval of the British Government, to compel Persia to forgo such financial advice as she had sought on her own account. The American financial expert, Mr. Morgan Shuster, had to be dis-

<sup>1</sup> Feis, *op. cit.*, pp. 361 *et seq.*

missed from the service of the Persian Government in 1911.

China, when coming into contact with Western civilization, was, in contrast to Japan, not a unified nation.<sup>1</sup> The vast population of the Empire does not even speak the same language. Its people were in no way ready or willing to adapt themselves to foreign ways. The Imperial Court ruled only by name; in fact, the provinces were virtually autonomous. The country suffered defeat from its Japanese neighbour in 1895, its territory was invaded and permanently held in several coastal districts by foreign powers.

It is interesting to observe, however, that the control of its customs and other sources of income was not originated at foreign instigation or pressure. The Maritime Customs Administration was organized in 1853 by the Chinese Government as a central body, headed by a foreigner, but exclusively responsible to the Peking authorities. After the war with Japan, China took up loans in Europe in order to pay the indemnity to Japan, and thereby free the occupied territory. The loans were secured on the Customs revenues. This changed the Administration in the eyes of the Chinese from a part of the Chinese Government into a collecting agency serving foreign interests. The Chinese authorities were no longer free to select its personnel. In further loan negotiations, a place in the Customs Administration was always among the concessions eagerly sought by rival powers.

These loan negotiations were dominated, particularly after the revolution of 1911, and in the end almost exclusively, by political considerations. Russia, supported by France, made claims on Manchuria and Mongolia, and came to an understanding with Japan for demarcation of mutual interests

<sup>1</sup> Feis, *op. cit.*, pp. 430 *et seq.*

in that region. England regarded the Yangtse Valley as its exclusive domain.

The original four-Power consortium for the reorganization loan sought by China after the revolution—United States, England, France, Germany—was transformed into a sextuple consortium to find places for Russia and Japan, two Powers which could not make any financial contributions themselves, but were admitted solely because they wished to share in the control over the use of funds loaned to China. Independent action of private financial groups in England was frowned upon by the Foreign Office, and the issuance of the second half of a loan which had been arranged was prevented by joint action of the consortium and the Powers. The Americans withdrew before the reorganization loan was issued, foreseeing political trouble due to the conditions to be imposed upon China, which indeed proved themselves to be both ineffective and harmful.

Chinese financial history of the last forty years is the prototype of an unfortunate alliance between finance and Government, or rather the predominance of the latter over the former, resulting in dissatisfaction all round, quite aside from the material losses incurred by the investors in the lending countries.

viii. *The Balkans.*

When the States of Greece, Bulgaria, Roumania, and Serbia were cut loose from the Turkish Empire, they came to life without administrative tradition. Their financial resources were small. Loans were taken up in the Western countries, but the service on them failed in due course. All of them, except Roumania, had to accept financial control. As in the case of Egypt, that in itself worked no harm; on

the contrary, it influenced their credit standing and assisted in the organization of an effective fiscal system.

In Turkey a considerable part of the revenues was put under international financial control.

After four independent States had been created out of Turkey's European possessions, a large number of heirs stood ready to dispose of her remaining properties. The prospective fate of Turkey has been the chief preoccupation of European chancelleries for thirty years, closely connected with the claims which the Balkan States raised, or with the question of what claims they would raise eventually.

Financial support given to the Balkan States or Turkey was always influenced by the political situation. Loans were sure to be used, wholly or in part, for armaments. The interests of the armament-producing industries were of course in favour of loans, but the improvement in the armed State of these nations was also a matter of official concern to the Governments of the lending States. A French mission was instructing the Greek Army; a German one the Turkish Army. British naval missions were busy both in Greece and Turkey.

Investments in transportation and in industries were made by each Western Power in each of the Balkan States and in Turkey. The most notable one, or at least the one which attracted most wide-spread publicity, was the Bagdad Railroad, which was, in connection with the Anatolian Railway, intended to connect the capital of the Sultan with its outlying provinces.<sup>1</sup>

This was intended to be international in ownership, and only after the refusal of the French and English financial groups

<sup>1</sup> E. M. Earle, *Turkey, the Great Powers, and the Bagdad Railway*, New York, 1923.

to participate did the German group carry on alone. Efforts to internationalize it never ceased, and in 1913-14 a number of agreements were perfected, apportioning and defining various spheres of interest in Turkey between the Western Powers and Russia. At the same time, the French Government consented to the issuance of a Turkish loan in Paris, after all differences between these two countries had been discussed and straightened out.<sup>1</sup>

There had been early in 1914 a general clearing up of the intricate problems of the Near East. It will always be a puzzling and unanswerable question why the Powers which had just reached an understanding *in a field* which for several decades had given them so many troubles should have been unable to adjust other grievances later in the same year?

It is not for us, however, to reproach them, in the face of the international situation existing to-day.

*ix. The Extent of International Indebtedness To-day.*

The World War was not fought by force of arms alone, it was an economic war as well; all the resources of the belligerents in raw materials and industrial capacity were called upon. The financially strong nations advanced the funds for carrying on the war, and immense debts were left to be liquidated in times of peace. The net result is that fourteen nations are debtors to the United States in annuities increasing from approximately 214,000,000 dollars in the period of 1926-30 to 370,000,000 dollars in the period 1951-5.<sup>2</sup> These nations again expect to collect from Germany what they owe to the United States, and a good surplus for their

<sup>1</sup> Feis, *op. cit.*, p. 329.

<sup>2</sup> Harold S. Moulton and Leo Pasvolksy, *World-War Debt Settlements*, Brookings Institution, 1929, p. 103.

own budgets on top of it. These arrangements were made in accordance with what was understood to be each nation's capacity to pay. The fact that a moratorium has been declared at the initiative of President Hoover is evidence that the capacity to pay has been wrongly estimated.

The economic and financial yardsticks with which the world was accustomed to measure until 1914 are no longer sufficient in a situation in which the figures involved in international financial transactions run into proportions never thought of before 1914. The total foreign investment of England, France, and Germany in 1914 amounted to 32 billions of dollars; the annual yield of this investment, taken at 5 per cent. per annum, would be 1.6 billions of dollars. The debt settlements call for the transfer to the United States of just about this amount every five years. The total German foreign investment in 1914 slightly exceeded 5 billion dollars; it was built up in decades of assiduous labour. It was lost in the war. Yet the Young Plan provides that Germany transfer each year nearly 500 million dollars to its creditors.

#### x. *Resulting Instability and Lack of Confidence.*

The economic equilibrium has been dislocated and an element has assumed tremendous importance that was of much less weight and much more easily adjusted before 1914: that of stability of currency.

All important Powers adhered to the Gold Standard. Gold was the common denominator of values between the nations. If the demands from one country upon another could not be adjusted through the ordinary channels of buying and selling commercial paper, gold was shipped to make good the deficiency. It was the chief function of the

central banks to watch over the stability of the currency and to regulate it, principally through the medium of the discount rates. The central banks were mostly privately owned. They exercised, however, principally in connection with note-issuing privilege which they possessed, important official functions. They served as intermediary to the financial world of their own countries and to the international financial world. Among the central banks of the various Powers most friendly relations existed throughout, and mutual assistance was granted almost as a matter of course. Twice in the last century, in 1839 and 1887, the Bank of France came to the assistance of the Bank of England.<sup>1</sup>

The war disturbed the stability of the currency of most nations. Mutual aid of the central banks, in connection with credits extended by, or through the medium of, private banks brought most currencies back to the Gold Standard, among them the English, the French, and the German.

What they could not restore was the equilibrium in the distribution of gold among the nations which prevailed before the war. The fact that most of the available gold of the world is now in the hands of two nations makes the money markets of all other nations in varying degrees inherently unstable.

What has also not been restored is the confidence of the investor in the safety of his investment in foreign countries. Apprehension as to the fate of private property has been frequently expressed by bankers in the last decade,<sup>2</sup> for if the owner of money put out in short-term credits has to fear

<sup>1</sup> A. Andreades, *History of the Bank of England, 1640 to 1903*, London, 1924, vol. ii, chaps. iii and iv.

<sup>2</sup> Paul M. Warburg, *The Federal Reserve System*, New York, 1930, vol. ii, p. 737.



that his funds will, in case of war, be confiscated, he will withdraw them whenever he regards the political situation with distrust. In the World War German property was confiscated and all nations made use of the ratification of the confiscatory acts in the Treaty of Versailles, except the United States and, with modifications, Japan and South Africa. The sanctity of private property and its independence of the political situation have lost greatly in force since the days of the Crimean War, when Russia was able to borrow in the London market while fighting was going on.<sup>1</sup>

The war and post-war period has, however, proved that the monetary system of a country can for a considerable period of time be made independent of its gold supply and independent of economic and financial intercourse with other nations. That, however, implies that that nation is for so long isolated and taken out of the circle of international trade. And free intercourse between the nations as the first condition for recovery from the present world depression is generally recognized.

xi. *The Separation of International Finance and Politics:  
Some Achievements of the League.*

In the light of all these facts I revert then to the point from which I started.

The first necessity in the present situation and for the future is to recognize the facts and laws which govern in the economic and financial field, and to spread this knowledge widely so that everybody will be able to draw his own conclusions. The Dawes Plan was a first-rate example of expert work, presenting and discussing facts. The Young Plan allowed politics to enter into the discussion, and there is no

<sup>1</sup> Jenks, op. cit., p. 285.

longer any clear separation of facts and conclusions.<sup>1</sup> What is the use of experts if we do not get their opinion but their political deliberations, or worse, the political orders of their Governments!

That economic and financial questions *can* to a large extent be neutralized and taken out of the political discussion is amply proved by the work of the Financial Committee of the League of Nations in the last decade.

Nine schemes of reconstruction have been carried out in six European countries.<sup>2</sup> After impartial examination of the status of the borrowing countries, arrangements have been made to give the investor, under the supervision of the League's representative, the security to which he is entitled without at the same time restricting the borrowing country's sovereignty and its just claim to political independence.

It has been definitely demonstrated that international loans can be extended in a truly international way without a repetition of the political jealousies and without the sting to the debtor country which so frequently could be observed before 1914. That is an achievement of the League, and, I think, a very important one.

The active financial work is accompanied and extended by scientific studies. The Gold Report of the League broaches the subject of the distribution of the precious metal and of the return to stability in the monetary systems of the world.<sup>3</sup>

<sup>1</sup> Dr. Hjalmar Schacht, *Das Ende der Reparationen*, Oldenburg, 1931, pp. 53, 58 *et seq.*

<sup>2</sup> 'Principles and Methods of Financial Reconstruction Work undertaken under the Auspices of the League of Nations,' II, *Economic and Financial*, 1930, ii, 16.

<sup>3</sup> 'Interim Report of the Gold Delegation of the Financial Committee,' II, *Economic and Financial*, 1930, II, 26 (Official No. C.375, M.161. 1930. II.)

The machinery which should be able to carry suggestions in this direction into effect has been organized already, though outside of the League.

It is the great achievement of the Young Plan—and here the experts were free to do their best expert work—that the collection, transfer, and distribution of funds were entrusted to an international clearing-house created for that purpose, the Bank for International Settlements, and that this institution was with wise foresight so organized as to enable it to do constructive work of wider scope in the future,<sup>1</sup> provided the Governments will entrust it with the appropriate powers and resources.

All plans for the future depend for their execution upon a full co-operation of all Powers, including the United States, which does not, so far, participate officially in the League's work, nor in the Bank, though it would be ungrateful not to acknowledge here the invaluable contributions rendered by American citizens in the League's financial work, in the establishment and operations of the Bank and in all other activities for financial reconstruction.

<sup>1</sup> Shepard Morgan, 'Constructive Functions of the International Bank,' *Foreign Affairs*, vol. 9, No. 4, July 1931.

## CHAPTER VIII

# LABOUR AND THE WORLD COMMUNITY

Mr. GEORGE A. JOHNSTON:

- i. *Labour Class-conscious, Nation-conscious, and World-conscious.*

LABOUR does not play an effective role in the development of the world community until it becomes not only class-conscious but world-conscious. Self-consciousness on the part of labour passed through three historical phases—class-consciousness, nation-consciousness, and world-consciousness.

It is the industrial revolution that first makes labour become class-conscious. Wherever and whenever the industrial revolution has occurred, it has first of all involved the employment of masses of unorganized workers who have soon found it necessary to organize and to present a united front. This general law has been exemplified not only in the beginnings of the industrial revolution in England in the latter half of the eighteenth century, but subsequently when the industrial revolution spread to France and Germany, and in more recent years in such diverse areas as in the industrial South of the United States, in South Africa, and in China.

The reason why the industrial revolution leads to the emergence of class-consciousness on the part of the workers was well stated by Adam Smith in his *Wealth of Nations*:

‘What are the common wages of labour depends everywhere upon the contract usually made between the employers and the workers, whose interests are by no means the same. The workmen

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desire to get as much, the masters to give as little as possible. The former are disposed to combine in order to raise, the latter in order to lower, the wages of labour.

‘It is not, however, difficult to foresee which of the two parties must, upon all ordinary occasions, have the advantage in the dispute, and force the other into a compliance with their terms. The masters, being fewer in number, can combine much more easily; and the law, besides, authorizes, or at least does not prohibit their combinations, while it prohibits those of the workmen. We have no acts of Parliament against combining to lower the price of work; but many against combining to raise it. In all such disputes the masters can hold out much longer. A landlord, a farmer, a master manufacturer, a merchant, though they did not employ a single workman, could generally live a year or two upon the stocks which they have already acquired. Many workmen could not subsist a week, few could subsist a month, and scarce any a year, without employment. In the long-run the workman may be as necessary to his master as his master is to him; but the necessity is not so immediate.’

The *Wealth of Nations* was published in 1776, and it will be remembered that Adam Smith was not a labour leader, but a canny Glasgow professor and tutor to a duke.

The curious historian may, indeed, trace the first beginnings of class-consciousness in such remote events as the revolt of the slaves in the silver mines at Laureium, or even in the still more dim past of Egyptian industrial annals. It remains, however, true for all purposes of serious study that labour does not develop class-consciousness until the industrial revolution.

The growth of nation-consciousness comes rapidly after class-consciousness. The reasons for its formation have been clearly stated by another economist, John Stuart Mill, in his *Principles of Political Economy*:

'Of the working man, at least in the more advanced countries of Europe, it may be pronounced certain that the patriarchal or paternal system of government is one to which they will not again be subject. That question was decided when they were taught to read and allowed access to newspapers and political tracts; when dissenting preachers were suffered to go among them and appeal to their faculties and feelings in opposition to the creeds professed and countenanced by their superiors; when they were brought together in numbers to work socially under the same roof; when railways enabled them to shift from place to place and change their patrons and employers as easily as their coats; when they were encouraged to seek a share in the Government by means of the electoral franchise.'

For the reasons indicated by Mill, we find, about the middle of the nineteenth century, the definite establishment in Great Britain, Germany, and France of national organizations of the workers with a real national-consciousness, formed not only to secure limited benefits, but to express the views of the workers in national affairs.

The first beginnings of world-consciousness followed closely upon the heels of nation-consciousness. The international relations of the workers' organizations began in the 'sixties with the foundation of the First International. It is interesting to note that the formation of this International was stimulated by the international ramifications of trade and commerce as these were indicated by the Great Exhibition of London of 1862. It was at this Exhibition that the idea of the First International was conceived. Karl Marx at once assumed the leadership of the First International, the International Workingmen's Association formed in 1864, in a conference held in London. It was natural that this Association should originate from a conference in London, because London had since 1848 been the recog-

nized home of Socialist and anarchist political refugees. While Marx continued to be practically unknown in the thinking of England, it was from London that he inspired the growing Socialist movement of Europe.

The draft for the Constitution of the International Workingmen's Association was prepared by Marx himself. It defined the object of the association as the conquest of political power by the workers, regarded as the only means of improving the conditions of labour. It called upon the workers of all countries to unite.

The First International was, however, not destined to last long. The defeat of the Paris Commune administered a severe blow to its revolutionary teaching. At the Congress of 1872, after a bitter dispute, the followers of Bakunin were expelled from the International, Marx moved the transference of the International headquarters to New York, and there, four years later, the First International was definitely dissolved. Its influence, however, did not cease with its dissolution. The German Social-Democratic Party had been formed in 1869, and in 1875, uniting with the followers of Lassalle on the basis of the Gotha programme, assumed its modern form. In France the Marxist Workers' Party was formed in 1876, and in England, some ten years after the collapse of the International, the Social Democratic Federation came into being.

Although the First International was a political rather than a trade union body, it exercised a very important influence on the development of the trade union movement in Europe (by attraction), and in the United States (by repulsion). But a word or two must now be said of the growth of the international trade union movement, properly so-called.

The history of international trade union organization is

generally considered as going back to the International Conference held on 21 August, 1901, at Copenhagen. It is true that attempts had previously been made to secure international action by the trade unions. As early as 1888 an international conference had been called in London, but as the British, who took the initiative in calling the conference, had not invited German, Austrian, and Russian organizations, many of the other Continental delegations were annoyed and the Congress was a failure. The French trade unions next took the initiative in calling a conference in 1900, but only English, Italian, and Swedish delegates took part, together with the French, and this Congress also was of no importance, except as leading to the calling of the Copenhagen Conference in 1901. The Copenhagen Conference, at which Legien pronounced the opening speech, decided that a further conference should be held in the following year at Stuttgart. At the Stuttgart Congress further progress was made. Further international conferences took place at Dublin (1903), Amsterdam (1905), Christiania (Oslo) (1907), Paris (1909), Budapest (1911), and Zurich (1913). It is of interest to note that it was Gompers who first made the suggestion at the Paris Conference in 1909 that the International Secretariat should be transformed into an International Labour Federation whose object would be the protection and the safeguarding of the rights and interests of the wage-earners of all countries, and also the promotion of international fraternity and solidarity.

In the earlier developments of the consciousness of power by labour, no clear distinction was made between the political and professional fields in which that power should be exercised. The First International, as we have seen, had both political and professional aims. In many individual coun-



tries the national labour movement was in its origin partly political and partly professional. Sooner or later, however, labour found it essential to distinguish. In most industrial countries it is now the general rule for labour to be organized, on the one hand, professionally in trade unions, and, on the other hand, politically in a Labour or Socialist Party. And even where this is not the case professional and the political activities of organized labour are perfectly distinct.

Labour, class-conscious, nation-conscious, and world-conscious in the political sphere, tries to make explicit the point of view of the workers by securing a direct representation of the workers in Parliaments and in world affairs, through the League of Nations. Labour, as class-conscious, nation-conscious, and world-conscious in the professional sphere, tries to make explicit the point of view of the workers in direct negotiations with employers and in the various conciliation boards and economic councils, and in the machinery of the International Labour Organization.

In the last ten years Labour has constituted the government of so many important countries that its influence on the development of the world community in the political sense cannot be minimized. The Second International also, as a world federation of Labour and Socialist Parties, consistently aims at influencing world affairs in the direction of the more intimate solidarity and integration of a world community. It is not possible, however, in the scope of a single paper, to deal in any detail both with the political and the professional development of the labour movement, and for this reason I wish in the rest of this paper to confine myself to a description of the development of the contribution of labour to the growth of a world community in the professional sphere.

ii. *The United Front.*

The main principle governing the activities of labour since the war may be formulated as follows: if labour is to make a real contribution to the development of the world community, its organization must be really representative of labour in the world community. If labour is to speak in world affairs with an authoritative voice, its organization must entitle it to speak for labour in the world as a whole.

The post-war difficulties of labour in the realization of that aim have been due to the existence of five international organizations, all but one of which claim to be world-wide in their activities. These five international organizations are: the International Federation of Trade Unions, the Red International of Labour Unions, the International Christian Trade Union Federation, the International of Independent Trade Unions, and the Pan-American Federation of Labour.

The International Federation of Trade Unions, which now includes the majority of the trade union movement of most European countries, together with Canada, South Africa, and one or two South American countries, included also before the war the trade union movement of Italy, Russia, and the United States. After the war, the International found itself deprived of the affiliation and the support of the bulk of the organized workers in the three last-named countries. The American Federation of Labour, after ceasing to participate in the conferences of the International after 1919, officially withdrew in 1921. The Italian C.G.T., which continued until its dissolution to be affiliated to the International, found itself displaced as the spokesman of the Italian workers by the Fascist organiza-

tions, which remained nationally independent. Finally, the workers of Russia were not only not affiliated to the Amsterdam International, but even set up a rival International. It was due to this fact that the question of the 'united front' resolved itself in the first place into a conflict between Amsterdam and Moscow.

The first Congress of the Red International of Labour Unions, held at Moscow in 1921, stated clearly its general standpoint. This Congress laid down five conditions of admission to the Red International: (1) to continue the class struggle by word and deed; (2) to accept the principle of the dictatorship of the proletariat; (3) to repudiate simultaneous membership of the Moscow and Amsterdam Internationals; (4) to ensure united action against the bourgeoisie in every country; (5) to subordinate the initiative of national organizations to the decisions of the international congresses. The Amsterdam International, on its part, maintained that the 'united front' must come through the agreement of the Russians to work in accordance with the principles of the I.F.T.U. At the Vienna Congress (1924) of the I.F.T.U., an important debate on the matter took place.

As a record of the debate, the Congress voted a resolution regretting the prolonged absence of the Russian trade unions from membership of the I.F.T.U. on account of their refusal to accept the rules and constitution recognized by the accredited representatives of the principal trade unions of the labour world, and recommending the Executive Committee, so far as compatible with the dignity of the I.F.T.U., to continue discussions with a view to ensuring the affiliation of the Russians to the international trade union movement according to the rules and regulations of the I.F.T.U. This resolution was sent on 16 July, 1924,

by the Executive Committee of the I.F.T.U. to the Congress of the Russian unions in a letter suggesting that there should be a meeting with a delegation of this organization.

Subsequently, the British trade unions formed the Anglo-Russian Committee, and for some two years attempted to arrange an unconditional conference between Amsterdam and Moscow. They did not, however, succeed in getting Amsterdam to agree, and when the Anglo-Russian Committee was dissolved, the question of the united front with Moscow, except on the terms indicated by Amsterdam, ceased to be a live issue. The organizations affiliated to Amsterdam in the principal European countries had suffered from Communist propaganda and the schisms that resulted, and were not in favour of free negotiation with Moscow. And it is possible that an influence unfavourable to Moscow was also exerted in Europe by the absolutely categorical pronouncement of President William Green at the Atlantic City Congress of the A.F. of L. in 1925 that the American labour movement would not affiliate with an organization that preaches Communism.

However that may be, it is certain that by 1927, when the Paris Congress of the I.F.T.U. was held, the question of negotiations with Moscow was no longer a matter on which there was anywhere serious difference of opinion. The International Federation of Trade Unions had made up its mind that there could be no question of a united front in Moscow unless Moscow were to capitulate.

The Red International, despairing of coming to an agreement with Amsterdam, despairing also of complete success in European countries, has in the last three or four years redoubled its attempts to secure the adherence of labour in extra-European countries, the labour movements of which

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are for the most part affiliated to no International. Thus, in 1929, the Red International organized two important regional congresses. One was at Vladivostok, under the auspices of the Pan-Pacific Trade Union Secretariat, which had previously held a congress in Hankow in 1927. The Pan-Pacific Trade Union Secretariat had been successful in securing the affiliation of the All-Australian Federation of Trade Unions, and it was intended that Australia should be represented. In fact, however, the Vladivostok Conference was a failure. The dispute between Russia and China over the East China Railway prevented the Chinese workers' delegates from attending, while the Japanese had difficulties in taking part, and the Australians arrived too late, so that the conference in no way realized the objects which the Red International had had in view, and in fact one of the resolutions adopted by the Vladivostok Conference was responsible for the subsequent decision of the Australians to sever their affiliation to the Pan-Pacific Trade Union Secretariat. This resolution is as follows:

‘Absolute equality of working conditions for all workers of different races and nationalities working in the same enterprises.’

This resolution did not appeal even to Communist Australians.

The other congress, organized by the Red International of Labour Unions in 1929, was the Montevideo Congress. This congress aimed at uniting the scattered and divided trade unions of Central America and South America. The Mexican delegate represented a centre recently founded in opposition to the Mexican Federation of Labour. The Uruguayan delegate represented an ill-defined federation of trade unions. The Argentine delegates were present as

observers, and some of them actually belonged to the organization affiliated to Amsterdam. The Brazilian workers' delegates did not represent a national organization but local groups, and the Chilean delegates were in the same case. The object of the congress was to establish a liaison organization for all the trade unions of South and Central America, but it does not appear that anything definite resulted from its deliberations.

At present, although the Red International of Labour Unions claims a total of nineteen million workers in the five continents of the world, it has little real strength outside of Soviet Russia itself. Amsterdam and Moscow remain in hostile camps, and no further proposal with a view to the formation of a united front between these two organizations is at present possible.

There is, however, another important aspect of the problem of the united front in which Amsterdam is concerned. This concerns relations between the International Federation of Trade Unions and the American Federation of Labour, the matter of which was again discussed at the 1929 Convention of the American Federation of Labour at Toronto. Although the Convention agreed with the opinion expressed by the Executive Council that 'no progress had been made in establishing international labour relations, and that the conditions which had made necessary the withdrawal of the American Federation of Labour from the International Federation of Trade Unions still remained', it nevertheless expressed 'the hope that friendly relations would be continued, and that mutual understanding would prevail through correspondence pending a more definite plan of relationship'.

As a matter of fact, there were other indications in the

same direction during the year 1929. Important articles were published by Mr. Matthew Woll, Vice-President of the A.F. of L., which were condensed into a resolution submitted to the Toronto Convention by the International Photo-Engravers' Union of North America and referred to the Executive Council. Mr. Woll's essential aim was to establish understanding and co-operation between the two organizations, the Pan-American Federation of Labour and the International Federation of Trade Unions. But to achieve this Mr. Woll suggested the division of the world into a western zone of influence reserved to the Pan-American Federation and an eastern zone reserved to the Amsterdam Federation, each organization undertaking not to trench upon the other's sphere of influence.

Mr. Woll's proposals aroused interest amongst most of the organized workers in Europe who are moved by a desire for unity in the workers' movement. But his 'application of the Monroe doctrine to trade union activity' met with a certain amount of criticism in the trade union journals of Europe. It is a fact that in South America a number of workers' organizations are turning towards the European trade union movement, and that the Amsterdam Federation had started a certain amount of propaganda in South America and obtained new supporters. A delimitation of influence might thus create a clash of principles and so make the necessary *rapprochement* more difficult.

Still another aspect of the united front controversy is to be found in the relations between the International Federation of Trade Unions and the International Federation of Christian Trade Unions. While the Christian trade union movement had originated in a considerable number of countries before the end of the twentieth century, it was not

until after the war that the International Christian trade union movement was definitely inaugurated by the holding of a congress at The Hague in 1920. This congress was followed by further congresses at Innsbruck (1922), Lucerne (1925), and Munich (1928). It was considered desirable to form this international confederation partly because it became clear that the various national federations and also the international craft federations of Christian trade unions were, in spite of divergences in the form of organization, inspired by the same essential aims. The war had not led the Christian trade unions to abandon any of their doctrines. Their fundamental conceptions were strengthened and not weakened by the period of the war.

The development of other machinery for international co-operation after the war made the Christian trade unions realize that it would be well to provide machinery for the international co-operation of their national movements also. The statutes of the International Confederation of Christian Trade Unions express in Article 2 its fundamental basis as follows:

‘The Confederation adopts as its basis the principles of Christianity and, in consequence, it affirms that economic and social life implies the collaboration of all the children of the same people. It therefore rejects violence in the class struggle both on the employers’ side and on the workers’ side. The Confederation considers that the present social and economic order is in contradiction on essential points with the Christian spirit. It works for the realization of a profound modification of society in conformity with these principles by following a path of evolution of an organic and legal kind. The Confederation has as its primary object the defence through general collaboration of the interests of manual workers and salaried employees from the standpoint of economic and social conditions and public order.’



Though the Christian and Amsterdam Trade Union Movements are competitors, their attitude to one another is entirely different from the open hostility that marks the relations between Amsterdam and Moscow. In fact, in certain countries the trade unions of Socialist and Christian tendencies have collaborated. This is notably the case in Germany, where the development of the Christian trade union movement has been most marked. According to the figures published in the report of the Secretary-General of the International Confederation of Christian Trade Unions in 1928, there were in Germany at that time over 850,000 Christian trade unionists out of a total for the world of slightly over 2,000,000. In Germany during and since the war joint action on the part of the free trade unions, the Christian and the Hirsch-Duncker was not infrequent.

In the international sphere the programmes established by some of the international secretariats affiliated respectively to the International Federation of Trade Unions of Amsterdam and the International Confederation of Christian Trade Unions of Utrecht have been very similar. Between the International Federation of Trade Unions itself and the International Confederation of Christian Trade Unions negotiations have taken place in recent years mainly with a view to reaching an agreement on the question of representation on the Governing Body of the International Labour Organization. While it would be a travesty of the truth to say that both organizations see eye to eye on this question, it is none the less the case that an agreement in principle was reached in 1928 between the leaders of the two movements, and it was not owing to any lack of collaboration on the part of the leaders that this agreement in principle did not lead to the results which were expected.

A word will be sufficient for the International Federation of Neutral Trade Unions. This federation was founded in 1925, and declares that it represents the point of view that nothing is so disastrous for the workers as the mixing up of political and religious questions with the trade union movement. In their opinion the trade unions ought to strive for the improvement of the economical, industrial, moral, and social interests of their members, and they ought to be—in order to reach that aim—independent of any political party and (or) any religious creed or tendency. This federation has a strong national affiliation only in Germany, where the Hirsch-Duncker are affiliated to it. It has not been seriously concerned in any united front negotiations, and cannot be regarded as having made any serious contribution to the development of the world community.

iii. *The Philosophical Basis of Labour Organization.*

The five international federations, with their affiliated bodies, naturally differ, not only in questions of tactics and practical politics, but also from the point of view of the doctrinal or theoretical basis of which their policies are founded. In this respect, however, an analogy may perhaps be drawn between the doctrinal differences which separate many branches and denominations of the Christian Church which are not divided from one another by any serious questions of theological doctrine. They separated from one another, or they were founded, for historical reasons which are no longer reflected in their philosophical basis.

It is often very difficult to be quite clear as to the precise philosophical basis of the trade union movement, either in the international or the national sphere. In some cases the theoretical basis of the movement must be deduced from the

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action of the movements themselves. This is the case both in Great Britain and in the United States, where the unions have been chary of formulating any theoretical statement of policy. In other countries, France, for example, the contrary tendency has, historically, been in evidence. A theoretical body of principles has been adopted, and an effort has been made to secure conformity of action to this theoretical basis.

A convenient touchstone of trade union policy is to be found in its attitude to the class struggle. The Red International of Trade Unions is definitely and enthusiastically committed to the class struggle. The Christian Trade Unions, Independent Trade Unions, and Pan-American Federation of Labour are all definitely opposed to the class struggle. The attitude of Amsterdam is more difficult to define, because it is in process of evolution.

In France, when the war came to an end, the leaders of the *Confédération générale du Travail* were conscious of the increasing strength and corresponding responsibilities of the trade union movement. The number of trade unionists in 1914 was some 800,000. For 1 January, 1920, the statistics published in the *Bulletin mensuel du Travail* showed a total of 1,580,967 trade unionists, but this does not represent adequately the growth in the power and influence of the trade union movement. The individual federations were reorganized, and their activity of all kinds increased rapidly.

In 1918 and 1919 the statistics of the C.G.T. were amended with a view to concentrating the organization of federations and transforming the national confederal committee. It was also perhaps not without significance that the Commission for the General Strike had disappeared

Conscious of its strength and determined to take the place which this strength warranted in the economic life of the country, the C.G.T. adopted a minimum programme and took action with a view to the setting up of a national economic council.

The minimum programme was so called because the maximum programme in the background continued to be the social revolution of syndicalist theory. The minimum programme, therefore, was intended to represent the programme of reforms which were considered to be realizable within a reasonable time. While the minimum programme is reformist rather than revolutionary, it does not necessarily involve the complete abandonment of the revolutionary theory of syndicalism. It was possible, therefore, to interpret the minimum programme as it had been possible to interpret the Amiens Charter, either from the point of view of the class struggle or from the point of view of collaboration between workers and employers. The emphasis given to the programme by trade union leaders on its adoption was rather on the side of the continuation of active collaboration. M. Jouhaux, at the 1918 Congress, used a phrase which was widely quoted: 'Il faut aboutir à la réalisation de cette formule: le maximum de production dans le minimum de temps, pour le maximum de salaires avec l'augmentation générale de la capacité de tous.' Such statements as this were widely regarded by the employers as an indication of the desire of the trade unions for collaboration, and comments were made which accepted this interpretation. Thus, M. Clémentel, at the time Minister of Commerce, at the installation of the President of the Chamber of Commerce in Paris in December 1918, quoted M. Jouhaux's phrase, and added: 'Quel industriel, à l'esprit ouvert aux nécessités

de demain pour notre pays, ne souscrirait à ce programme?' M. Maxime Leroy has claimed that there is at the basis of the doctrine involved in the minimum programme a repudiation of the practices of the 'old revolutionary Blanquisme', of the methods of riot and anarchism of the nineteenth century. He considers that, with the minimum programme of the C.G.T., with the Economic Council which it founded to realize this programme, a new period opened in the history of the French working-class movement, a period marked by determination to keep to realist and empirical technique.

But though, after the war, the official attitude of the C.G.T. was in the direction of the continuation of the spirit of collaboration which had existed during the war, rather than in the direction of actively renewing the class struggle of pre-war years, it was unable to secure the adoption of this attitude by all its members.

A scission took place within the C.G.T., and the left wing formed the Confédération générale du Travail unitaire, affiliated to Moscow. Since this scission, the C.G.T. has gradually consolidated its position, and as a result of wise leadership it has done much to regain the position it previously held, not only in the trade union world, but in public opinion.

The attitude of the C.G.T. to the general economic situation was indicated in the manifesto issued towards the end of 1927, in which it set forth the programme which the workers desired to see realized immediately. This manifesto states that the Confederation is of opinion that the dominant problem is still how the country can return to normal economic conditions. 'The Confederation demands to-day, as it demanded yesterday, the stabilization

of the currency, by which alone an end can be put to the forestalling and speculation to which the high cost of living is attributable. This stabilization should as speedily as possible be confirmed by law, if it is desired by stimulating regular and co-ordinated productive activity to arrive at a genuinely sound situation, and one which would make possible the growth of individual and national resources.'

'To such a reorganization of production and exchange the workers' movement is ready to lend its assistance, on condition that it is recognized that the application of the formula "maximum output in minimum time for maximum wages" should be followed by a series of measures', the most essential of which are: the development of collective agreements, the complete recognition of freedom of association, the introduction of workers' control, safeguards in connexion with rationalisation, the reform of the National Economic Council, the extension of labour legislation, the ratification of International Labour Conventions, etc.

In Germany the post-war attitude of the trade union movement on the question of the class struggle has been vitally influenced by the Republican National Constitution. Article 165 of the Constitution declares that it is the function of the manual and non-manual workers to co-operate on an equal footing with the employers in regulating wages and working conditions, and in the whole economic developments of the forces of production. The organizations on both sides and their agreements are recognized. The employers' and workers' organizations were to receive legal representation to safeguard their social and economic interests in the form of works councils, district labour councils, and national labour councils. The principle of collaboration in the work of these councils is also emphasized.

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This article, therefore, clearly lays down the principle of collaboration between the employers' and workers' organizations, not only as independent bodies, but also in relation to their position in the State. Collaboration between employers' and workers' organizations is to be encouraged, not only directly in matters which concern them and on which they can reach agreement without the intervention of the State, but it is also to be encouraged in collaboration with State machinery and in the promotion of legislation.

A commentary on this article of the Constitution from the trade union side, written in 1928, claims that the spirit of collaboration emphasized in the Constitution still, after all the vicissitudes of the post-war years in Germany, inspires the responsible leaders of the trade union movement.

'These clauses of the National Constitution form the basis of the activities of the trade unions in the new State, and define the boundaries of these activities. It is the duty of the trade unions to fulfil the functions thus assigned to them in these articles, by their ordinary activities, by influencing legislation, by helping to ensure the application of legislation, and also by making direct arrangements with the employers and their associations, their natural partners, who are, moreover, now allotted to them as such by the Constitution. Although free to determine their form and work, and unfettered in the choice of the means to be used to secure their objects, the trade unions are yet to a certain degree organs of the administrative machinery; that is, they are units forming part of an administration of labour functioning in the public interest, of which the principle has indeed been recognized, and the first beginnings made tentatively and amid much opposition, although there is still

much to be done before it shall have been brought to perfection.'

Nevertheless, the A.D.G.B. still maintained a spirit of loyalty to the doctrines of Socialism. The Nuremberg Congress of 1919, discussing the Joint Industrial Association of November, declared that 'the trade unions considered Socialism . . . to be the highest form of national economic organization'.

An important pronouncement on this matter was made by the Breslau Congress of 1925, in discussing the question of collaboration between trade unions and the employers on the item on the agenda 'economics and the trade unions'. The Congress carried a resolution in favour of the active collaboration of the workers and the trade unions in the economic life of the country. Economic problems, it said, can only be solved by the democratization of economic life, together with the comprehensive rationalization of work, better factory organization and teaching progress. It advocated the speedy conversion of the provisional Economic Council into an economic parliament, the establishment of district economic councils, and the founding of economic chambers under the joint administration of the employers and the workers, and the establishment in all industries of autonomous bodies in conformity with Article 156 of the Constitution.

The definite programme established at Breslau includes, as in the case of the minimum programme of the French C.G.T., a distinction between the main object of the working classes and its present-day programme. The object of the economic conflict of the working class is stated to be the conversion of the present economic order into an organization of labour in the public interest. The present programme,



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however, advocates collaboration with the employers and with the State in the practical work of the movement for the ultimate attainment of this end.

In Great Britain, immediately after the war, the general attitude of the trade unions was favourable to collaboration with the Government and with the employers, and the trade unions actively participated in the National Industrial Conference called by Mr. Lloyd George in 1919. From this time onward, however, the trade unions grew steadily less and less disposed to collaboration. This change in their attitude was undoubtedly due, in the main, to three causes.

In the first place, they were deeply disappointed that the Government did not take action on the recommendations of the Conference, although these recommendations had been agreed to both by the employers and the workers.

In the second place, the period of intense economic disturbance that succeeded the war, with severe fluctuations in wages and cost of living, and accompanied by widespread and prolonged unemployment, suggested to the workers that they would best serve their interests by aggressive concerted action in opposition to the employers.

In the third place, their 'present discontents' turned their attention more and more to what was passing in Russia. A strong minority movement succeeded in calling an important conference in January 1925 which pronounced in favour of the creation of an Anglo-Russian trade union committee. This committee met in April 1925, with six representatives of Russian organizations and twelve of British, including most of the prominent leaders of the T.U.C., sitting as individuals. A joint resolution with a formal proposal for working together was adopted and subsequently approved both by the Trade Union Congress General Council

and by the Scarborough Congress of the T.U.C. in September

The movement in favour of aggressive industrial action, influenced by all these factors, continued to grow in force until it broke into realization in the General Strike of 1926. This constituted a turning-point in the attitude of the trade unions towards industrial relations.

In the first place, by a curious paradox, the General Strike put an end to the influence of Communism with the British trade union movement. The attempted interference of Moscow in the strike and its criticism of the British trade union leaders immediately antagonized the great mass of British trade unionism. From that moment any danger that Moscow would exert a real influence on British trade unionism was at an end. It was therefore a foregone conclusion that the 1927 Congress of the Trades Union Congress should put an end to the career of the Anglo-Russian Advisory Committee.

In the second place, reflection on the results of the General Strike led to a strong reaction against extremism. The view began to gain ground that it would be worth while for the workers to make trial of a policy of active collaboration with the employers. Instead of looking with sympathy on Russian experience, they would look with sympathy on American experience. For relations between the T.U.C. and the A.F. of L. had never been broken, and fraternal delegates from each movement continued to attend the annual congresses of the other. In recent years the American fraternal delegates to the T.U.C. had emphasized the industrial relations policy of the American workers; and many leading British workers had had an opportunity of seeing for themselves the results of the American system.

It was therefore not surprising, in view of all these circumstances, that the Edinburgh Congress of the T.U.C. in 1927 (the same session as brought to an end the Anglo-Russian Committee) adopted a resolution in response to the Prime Minister's appeal for industrial peace, in which, while criticizing the Government, it emphasized that 'no section of the community is more desirous of industrial peace than the workers'.

This attitude of collaboration of the trade union movement has continued to govern its policy. It cannot be stated better than in the words of Mr. Ben Tillett, in his presidential address to the 1929 Session of the Trade Union Congress:

'To-day the trade unions are an integral part of the organization of industry. There is nothing in the organization and direction of industry that can now be regarded as the exclusive concern of the employer. The wider functions of trade unionism to-day are a measure of the changes that have taken place in its outlook, its policy, and its organization in a short space of time. The importance of these cannot be exaggerated. As a result, the General Council is now for the first time in consultation with the two bodies representing the organized employers of the country. That brings them within sight of the goal at which the Congress has been aiming, when responsible bodies representing the wage-earners on the one hand and the organizers of industry on the other can sit down together to consider their mutual relations and the problems of industrial reorganization without sacrifice of principle. The resources of the trade union organization are at the disposal of the nation in a genuine endeavour to promote the regeneration of economic life, to recover lost markets, to open new channels of trade,

and to modernize our methods of production and distribution.'

This brief survey of events in France, Germany, and Great Britain has shown that considerable changes have been taking place in trade union philosophy since the war. This is, indeed, but natural. 'Les associations professionnelles ne sont pas des créations de fantaisie, mais des organismes dont la structure est déterminée par le milieu social et qui se transforment en même temps que lui.'

The evolution of opinion in its constituent national centrals has necessarily been reflected in the attitude of the International Federation of Trade Unions. While still remaining true to its Socialist basis, the I.F.T.U. has not hesitated to put into practice a policy of collaboration with employers and with Governments.

If we turn now to the Christian trade unions, it will be clear that from the point of view of doctrine the Christian trade unions agree in certain points with the Socialists and differ from them on other points. The Christian trade unions are in agreement in principle with the Socialists that the present social and economic order is not a perfect one, and that profound modifications must be produced.

The Christians, however, vary from the Socialists in their conception of the manner in which the social and economic order is to be changed. While the Christians believe that this profound modification of society which they consider necessary may be secured by means of legal and organic methods of evolution, the Socialists in the strict interpretation of their doctrine believe that this change of the economic order can be secured only through the method of revolution. On the other hand, it must be remembered that the Socialist view itself often involves profound divergences between

Revolutionary Socialism and Reformist Socialism. The view of the reformist still does lip-service to the theory of the revolution, but the revolution to them is no bloody affair of barricades, but a peaceful revolution which only in terms is different from the conception of organic evolution. In ultimate practice, therefore, the view of the new industrial order maintained by the Christian trade unions and that maintained by the Reformist Socialist trade unions is not fundamentally different.

The Christian trade unions further agree with the Socialists in having as their immediate object the defence of the interests of the workers. It is only in the methods adopted for the defence of these interests that a difference again makes itself manifest between the Christians and the Socialists.

While the doctrine of the class struggle is a fundamental element in the conception of the Socialist trade unions, it is explicitly repudiated by the Christian trade unions. They aim explicitly at the development of the spirit of collaboration between workers and employers. Here again, however, the difference in practice between the Christians and the Socialists often becomes very attenuated. The Christian reprobation of the class struggle, it should be noted, explicitly extends both to employers and to workers. It follows that if the employers adopt towards the Christian trade unions the spirit of the class struggle, the Christian unions find themselves in the necessity, in the defence of the interests of the workers, of adopting methods not fundamentally different from those of the Socialist trade unions. Thus, in practice as also in theory, the Christian trade unions have always recognized the principle of the necessity of the strike and have frequently engaged in strikes.

Class-collaboration as opposed to class-conflict is also the keynote of the doctrine of the Fascist trade unions. The importance of this doctrine in the practice of the Fascist movement can only be appreciated when the history of the development of Fascism is recalled.

The years immediately following upon the war saw the development in Italy of a situation similar in certain respects to the situation in other belligerent countries, but presenting certain features of marked difference.

In the first place, whereas in France and Great Britain the policy of the Government recognized the necessity of proceeding with due caution in the matter of decontrol and the abolition of war-time conditions, and followed the policy of looking to the gradual removal of excess profits duties and other fiscal restrictions, in Italy, on the other hand, the policy of the Government was felt by the employers to be definitely unfavourable to them. The confiscation of war profits, combined with the regulations forbidding under certain conditions increasing the capital of the firms, undoubtedly led to the most serious difficulties for the employers, and the attitude of the Government was widely characterized as 'anti-industrial'.

In the second place, whereas in France and Great Britain and Germany Communist propaganda, though active, never succeeded in securing any practical demonstration on a considerable scale, in Italy propaganda issued in practice in a series of striking manifestations. In the political sphere Bolshevik experiments were attempted, and for a few days a 'Red Republic' was even proclaimed at Sestri and Cornigliano in Liguria. In the industrial sphere the workers, not content with merely talking about 'workers' control', actually occupied the factories.

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This revolutionary movement reached its zenith in the autumn of 1920.

But Communism was not destined to become the conviction of the workers of Italy. It succeeded, however, in leading them so much to the left that when the reaction came and the Fascist movement developed, not only were the Communist trade union organizations overwhelmed, but the Socialist ones as well. The Fascist organizations rapidly grew in strength, and in 1926 a definite and special legal constitution was accorded to them.

In accordance with the Act of 3 April, 1926, on collective relations in connexion with employment, completed by the Regulations of 1 July, 1926, a complete system of workers' organizations was legally constituted.

The Fascist trade unions were reorganized at the end of December 1928. The *Official Gazette* of 15 December, 1928, gives the constitutions of the confederations of Fascist trade unions in agriculture, industry, commerce, banking, and transport and inland navigation, and also that of the National Confederation of Artists and Members of the Liberal Professions.

The objects of each confederation are stated to be:

To make the best possible use of labour and skill in providing for the placing of workers in employment; to secure for the workers a fair remuneration by means of collective contracts of employment; to help the workers in any disputes which may arise between them and the employers, provided that the trade union organizations recognize the claims of the workers as well founded; to encourage the development and assist in the enforcement of social legislation; to promote the technical training and general education of the workers by the establishment of vocational schools,

courses of lectures, and the utilization of spare time; to encourage among the workers the establishment of co-operative and profit-sharing societies to improve their material position; and the development of education to improve their productive capacity.

The Fascist trade unions are definitely committed to a policy of collaboration with the employers, in the interests of the Nation. Together with the employers' organizations, the workers' organizations belong to the corporations.

The corporations have to promote, encourage, and subsidize any initiative taken by the unions with the object of co-ordinating and re-organizing production on improved lines. By this means the indifference of the old Liberal State—graphically described by Signor Mussolini as '*the agnostic and cowardly State*' ('*lo Stato agnostico ed imbellè*')—in relation to the organization of production, which, like so many other matters, it regarded as purely a question of private interest, is completely abolished.

The Founder of the Fascist trade unions saw in the corporation 'from the very first moment not merely a distant aim, but the actual instrument of class collaboration subordinated to national ends'.

iv. *Participation of Labour in the League of Nations and the International Labour Organization.*

The interest of labour in the development of the world community as evidenced in the institutions of the League and the I.L.O. does not date merely from their foundation, but has its roots in various labour congresses during and even before the Great War.

In theory, all labour organizations which have adopted a policy of class collaboration, either as a matter of principle



or of expediency, can collaborate in the work of the League and the I.L.O. In fact all such organizations, with one exception, have collaborated with, or adopted a sympathetic attitude to the work of the League and the I.L.O. Most of the workers' delegates who have attended the various sessions of the I.L.O. Conferences belong to national centrals affiliated to the International Federation of Trade Unions. A certain number of delegates and advisers have come from unions affiliated to the International Federation of Christian Trade Unions, and one or two have come from unions affiliated to the Federation of Independent Trade Unions. The workers' delegate of Italy has for many years been a representative of the Fascist Federation. In the Governing Body of the Office, the six workers' representatives have on all occasions been members of national centrals affiliated to the International Federation of Trade Unions, but representatives of the Christian unions and of the Fascist unions have collaborated as members of various committees. Representatives of these federations have also participated in the work of certain of the commissions and committees set up by the League of Nations, such as those dealing with transport, the protection of children, disarmament, and economic and agricultural questions.

The only important trade union organization practising a policy of class collaboration which has not officially participated in the work of the I.L.O. and the League is the American Federation of Labour, and its abstention from participation has been due less to lack of sympathy with the aims of the International Labour Organization than to the constitutional difficulty of participation in view of the fact that the United States of America is not a member of the League or the I.L.O.

It will be seen, therefore, that the only considerable body of organized labour which has consistently declined to participate in the work of the International Labour Organization and the League is the Red International of Labour Unions. This body has branded the League and the I.L.O. as capitalist bodies, and has therefore preached to its members the doctrine that participation in their activities would constitute treason to the cause of labour. This teaching has been followed by the Communists not only in Russia, but in the small number of other countries in which they constitute the majority trade union movement. Thus, in Norway, the trade unions under Communist influence have declined to participate in the work of the International Labour Organization.

It is not without interest to note from this brief survey that with this exception organized labour, whatever may be its internal dissensions, has consistently contributed to the development of the world community through the instrumentality of the League of Nations and the International Labour Organization

CHAPTER IX  
THE THEORY OF AN INTERNATIONAL  
SOCIETY

Professor HAROLD J. LASKI:

*i. A New Philosophy of Inter-State Relations.*

NO one at all conscious to-day of the interdependence of nation-States can doubt the necessity of an organization suitable for the performance of common functions. The League of Nations, even in the brief years of its existence, has become like the God of Voltaire; if it did not exist, it would be necessary to invent it. And it is notable that even those States which are not officially reckoned among its members find collaboration with its effort necessary upon an increasing scale. However incomplete and inadequate the League may be, it is, with the Russian Revolution, one of the two outstanding institutional developments of the post-war world.

There have been studies enough, and to spare, of the League's operations. What seems to have lacked satisfactory discussion is what may be termed its philosophical prerequisites. It is all to the good that men should, broadly, accept the notion of an international society as inevitable. The perception that science has produced an inescapably unified world is, clearly enough, the basis upon which all serious thought upon international relations must now proceed. The inferences from that outlook are clear. All matters of joint concern between nation-States must be matters of joint-decision. Since their incidence can no longer be limited by the territorial boundaries of States, the

view of the latter which regards them as, so to say, the final term in the institutional equation is necessarily obsolete. What we require is a way of relating States to one another so as to translate their common interest into effective terms. A philosophy of politics, if I may so phrase it, needs nowadays not merely to be a philosophy of the abstract State and its private purposes, these being regarded as a closed system. It requires to be a philosophy of inter-State relations in which, because the purpose of that *civitas maxima* in which all actual States are merely units is paramount, the law and activity of each State finds its properly subordinate relation to the greater whole to which it belongs.

The problem, of course, is a complicated one. Partly, it is a matter of discovering the appropriate institutions for what I can only term a new epoch in the history of civilization. But, partly also, it is a matter of discovering the legal and political philosophy upon the foundations of which those institutions may be discovered. This, certainly, we have not yet attained. We are still in the position of men who are presented with the fact of a Copernican universe, and yet try to adjust it to the Ptolemaic principles we have inherited. Our hypotheses are still conceived in terms of the old world from which we have emerged; and we dislike the effort that is involved in thinking out afresh the essentials of our thinking. Yet nothing less is central to the position that confronts us. In a unified world we cannot continue to assume that the will of the nation State is, either legally or politically, the final boundary in the attainment of common international purposes; for to do so is to deny the fact of that society of States of which England, France, America, Germany, are no more than provincial units. We cannot continue to talk of their sovereignty as the basis of International law in the face

of the Covenant of the League, or of the position of States like the British Dominions, of Cuba and Egypt and Iraq, or of a community vowed to perpetual neutrality like Switzerland. The world has need of new concepts to meet needs previously unknown. Until we can find them, the building of solid international relationships is bound to be a dark and hazardous adventure.

Do not think that I underestimate the attraction of the older ways. The theory of State sovereignty has a great tradition behind it, and it may well be that in its earliest phase, it represented a force working for human emancipation. It is important, also, that it satisfies national pride; and no one who has lived through the last twenty years of European history is likely to underestimate the strength of nationalism. There seems to be something almost instinctive in the national desire, having come to be, to be strong; and the panoply of a sovereign State being the form in which, historically, national strength seeks to clothe itself, it is natural enough that the contours of international organization should have assumed their present character. But no one, I think, can honestly say to-day that this character meets the needs we confront.

For if nation-States have the legal right to an unfettered will exercised without regard to the wills of other States, the outcome is disaster; and the subjects upon which such a will is exercised go down to the roots of national activity. Tariffs, armaments, the treatment of minorities, the acquisition of territory, the determination of boundaries, access to certain basic raw materials, no nation-State can exercise its unfettered will upon these matters, and not a few others like them, without vitally affecting the lives of other States. To leave the area of common interests unorganized is no

longer possible. If we do so, the inevitable result, sooner or later, is conflict. It is no more practicable to-day to allow a nation-State to be judge in its own cause than it was, at the close of the Middle Ages, to leave feudal jurisdiction unfettered and achieve national unity. We have to find the concepts of cosmopolitan thinking as the very basis of security for civilized existence.

ii. *Inadequate Foundations of International Law.*

To do so, as I think, two great things are necessary. We need, first of all, a new philosophy of international law. Its present foundations are, I venture to think, wholly inadequate for our needs. Broadly speaking, there are two great schools of thought to-day. The one, which goes back, perhaps, to Hobbes more than to any other thinker, finds the binding force of international law simply in its adoption as a body of legal rules by the practice of States. Starting from the logical hypothesis that the State is sovereign, it argues that no will can bind its will. International law, therefore, is only obligatory in so far as it is municipally adopted. Freedom of the seas means for England, and English Courts of Law, to take an obvious example, only what the King in Parliament decides it is to mean. There is no other legislature, and no other court, with the legal right to bind the English State to the acceptance of practices to which its competent organs declare themselves opposed. And since, to generalize, the sovereign State can know no superior, it follows that a society of States built, like our own, upon the concept of sovereignty, must make the idea of unanimous consent to its practices the law of its life. For what gives to those practices the binding force of law is their acceptance by States as the only authorities competent to declare their will. Granted

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the assumption, the logic is, I think, irresistible. The problem for an international society is the validity of the assumption.

For, after all, the idea of the State as sovereign is not something inevitably predestined by the nature of things. It is an idea with a history, the nature of which very largely explains the present position. The sovereignty of the State came into being to rescue the secular prince from the trammels of ecclesiasticism. When the Christian commonwealth of the Middle Ages broke down, simultaneously, almost, with the eclipse of a feudal society, some means was necessary to find centres of unity in the new plurality of experience. The theory of sovereignty was the means discovered. It enabled a clear system of legal obligations to be laid down which the individual evaded at his peril. The sovereignty of the State meant the supremacy of its will over all other wills which sought to contest its validity. It was never politically adequate, as the history of Church and State makes evident; and it was never ethically satisfactory, as Bodin's own insistent limitations make clear. But it satisfied the great need of certainty, and the reader of Hobbes will find hardly a page of his vigorous positivism in which the yearning for certainty, at almost any cost, is not the outcome of a grim experience of what anarchy implies.

Such a view was intelligible enough in a period when the reciprocal relations of States were spasmodic in character, when further, the embodiment of the State, as a general rule, in a royal person meant a simplicity in international relations now largely obsolete. An economic crisis in Germany did not mean, for the seventeenth century, the prospect of immanent disaster for the rest of the world. Economic nationalism in 1731 did not mean what economic nationalism

means in 1931—a threat to the very foundations of civilized existence. Nearly eighty years of civil war in France made nothing like the difference to European prosperity that only five years of civil war in Russia have involved. And the notion that a nation-State has obligations to the society of States was rarely present in the minds of statesmen. They were the servants of the monarch; it was with the extension of his personal prestige that they were largely concerned. The moralization of power was a notion largely devoid of foundation for international purposes. Experience had little behind it to prove that, in fact, it is simply common sense writ large.

The tradition of Hobbes was, therefore, overwhelmingly successful. Fortified by the authority of Pufendorf and Vattel, it became the classical theory of international law; adopted by Hegel, it was held to provide a philosophy of politics which alone adequately related the individual to institutions. What I desire to emphasize in the result is simple. It is that this positive theory assumes, almost *a priori*, that the hinterland between States is incapable of organization. It denies the possibility of institutions which give orders to the State itself. It discovers the legality of law, its power to bind its subjects, in its derivation from the State's will. And since, by postulating that will as sovereign, it makes it incapable of subjection to an authority outside itself, it concludes in fact that international law is simply a body of moral precepts which States observe when and as they find it convenient to do so.

I am aware, of course, that there are other traditions in the history of international law, most notably that noble tradition beginning with Vitoria and Suarez, continuing with Grotius' remarkable distinction between the just and the unjust war,



and showing signs of an interesting revival in our own day in Paris and Italy. This is the school which finds the basis of international law in its derivation from natural law considered as binding by reason of the inherent force of its substance. For reasons into which I cannot here enter, the effort of this tradition does not seem to me likely to provide an adequate substitute for the classical doctrine. Its roots in a special theological background, its inherent indefiniteness, its inevitable subjectivity all seem to me serious disqualifications for its acceptance as a theory of international law likely to serve as the basis of a new international order. I do not deny that much of the philosophy which seems to be requisite will have a great deal in common with the theory of natural law. But its presuppositions will be different even if it has the same ends in view.

Let me try to state the objections to the classical doctrine in a way which brings out their institutional inadequacy in terms of the present social order. (1) It is inadequate because it assumes that the sovereignty of the State requires the latter's consent to any international action by which it is affected. (2) It assumes that the validity of international law is not a function of its substance but of the source from which it emanates. (3) It argues that States are the only subjects of international law. The inadequacy of this view for an age with problems of minorities, of mandates, and great international economic organizations on its hands is too obvious to need development. (4) It involves a view of the equality of States which is not only remote from the facts, but incompatible with any satisfactory organization of the international community. (5) It assumes a State absolutism of competence, both in the national and in the international field, where the facts demand the restriction of relativity.

(6) In a field of multiple relationships, its theory of the binding force of agreements is not multilateral but unilateral. In a treaty, for example, the fact that the consenting powers are sovereign means an authority to escape from its obligations for each party without the will of the others. (7) The formal thesis of sovereignty leads to a formal assumption of irresponsibility. While, juristically, this is an inescapable conclusion from the postulate made, in historical fact it passes over into an assumption of ethical irresponsibility. States then hold themselves to be above the ordinary canons of ethical practice; the result is to poison the atmosphere of international relationships by promoting feelings of suspicion and uncertainty.

iii. *A New Basis.*

I have, of course, consciously simplified the problem, not least by translating it into non-technical terms. Let me now seek, as best I may, to describe the kind of philosophy the new international law must seek to embody. We must begin by postulating the society of States, the *civitas maxima* in which all have their being, as the source from which the competence of all individual States is derived. The law, then, of this society is binding upon its individual members. Despite differences of territory and wealth and power, each can have equal claims with its fellows because each is equally subject to that law. If, that is, we postulate the primacy of the international order, then there exists above the separate States which are parts of it a legal order which defines their competences and gives validity to the relations in which they exist to each other. On this hypothesis international law is primary over municipal. The legality of the State's will is dependent upon its conformity with the law of the interna-

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tional society. The State ceases to be sovereign because the *civitas maxima* stands above it. The legal postulates of that order appertain equally to all States. Each has legal rights and duties capable of definition in terms of the law of the world-order so defined. International law, in this sense, is the ultimately valid law; the legality of municipal law depends upon its conformity with the norms of the system from which it derives.

This may sound highly abstract conceptualism; but high abstractions establish a vigorous empire over the minds of men. Let me dwell first upon its advantages for our time. It is a way—I would add the only satisfactory way—of so regarding international law as to make it inherently binding upon all States independently of their particular wills. It makes possible the abandonment of the hypothesis of sovereignty—a concept incompatible with the idea of an international legal order. It gives reality to the idea of equality in the international field; each State, on this view, is equal before the law in the same sense as individuals are equal before the municipal law of the individual State to which they belong. It makes it possible to conceive of international law as binding not merely upon States, but upon all who live within the ambit of the international legal order, the rights and duties of the individual citizens within a given State are then, at least theoretically, not less capable of protection or assertion by the international authority than those of the State itself. It makes an end of the possibility—not unreal in our own day—that a State can, of its own will, seek to regulate the conduct of the members of other States. It provides, again, the only way of compelling a State, within the field of law, to live up to its obligations. Take the question of a State debt, internationally held, which is repudiated after

a revolution. In the terms of positive international law, there is no legal means of dealing with the problem simply because the will of the sovereign State cannot be bound from without. On the hypothesis I am urging, the abandonment of sovereignty makes possible a truly legal solution. And, for the same reason, there is no need for the retention of the rule of unanimity in such a body as the League. For on the thesis of the primacy of international law, sovereignty—if we are to use the term—belongs to the *civitas maxima*, and States, being merely provinces within the larger unit, have no legal right to make their wills the measure of the action to be taken.

I would urge that no other theory has the merit of an equally scientific character. For no other hypothesis can meet the crucial test that the creation of a new State obliges the latter to accept the existing rules of international law. If, for instance, we say that this acceptance may be derived from a rule of constitutional law—as, for instance, in the new Germany—it would then follow that a change in the Constitution would deprive international law of its binding force. And if, as the positivists explain, the acceptance is a tacit fact which must be assumed from the emergence of the new State, the answer surely is that this is an unsatisfactory fiction which, in its turn, does not explain why international law is binding upon new States which have not yet been recognized by others.

I agree, of course, that the conception here put forward still largely dwells in the realm of hypothesis. It is legitimate to claim that, in the actual practice of States, the positivist doctrine still holds the field. But I would venture the assertion that its supremacy has been visibly shaken. That is, I think, evident in a number of ways. It is inherent in the

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development, since the war, of a number of nation-States whose wills are limited by the acceptance of international servitudes; in this aspect the importance of the minority sections in the Peace Treaties of 1919 is outstanding. It is clear, again, in the obligations assumed by those States which are members of the League of Nations; no one can honestly say that their wills now remain unfettered in the old, sovereign way. It is, I think, implicit in the Statute of the International Court, and especially in the Optional Clause, now, happily, the subject of so wide an adherence; and the width of the sources from which the Court is permitted to take its doctrine shows, I think, a temper entirely alien from that of the pre-war epoch. I venture, finally, to suggest that the literature of international law in the post-war period shows a growing disinclination to accept the adequacy of positivism. The development of the Austrian School, the respect in which it is held by men of the standing of Anzilotti, the new significance attached to the ideas of Westlake, the work of Duguit, of Salvioli, of Krabbe, and of Lauterpacht, all point in the same direction. So, too, does the revival of the idea of natural law as a body of principles binding upon the action of States. As I have admitted, I do not think the work of the Naturalists has yet attained that clarity of outline which makes one certain that its substance is scientific; but at least it is a straw to show in which direction the wind is blowing. It is not, I think, an excessive prophecy to predict that within a generation positivism will be generally regarded as the relic of an unhappy age of international anarchy.

One other point is worth while making. International law is often regarded contemptuously because it lacks the same means of enforcement as are at the disposal of muni-

cial law. The State, it is argued, treats it with impunity whenever it is obviously to its interest to do so. Germany was bound to respect the neutrality of Belgium; she did not hesitate to violate it. Italy broke the Covenant of the League by the bombardment of Corfu. The rape of Vilna by Poland has been followed by a failure to restore the *status quo*. In international law, in short, the will of the parties is so integral to the substance of the law that it cannot rightly be described as having an existence above them. I do not deny the seriousness of the criticism. But its import is not what the critics assume. The validity of law is only partially dependent upon the completeness of its application. We cannot say that the British income-tax law is invalid because it is evaded by a considerable number of persons. We cannot say that America is devoid of law because the problem of its enforcement is acute. We may agree that any legal principles which arouse widespread dissent of an active kind are unlikely to be successful. But that is a controversy of which the import is political and not legal. The fact that men commit murder does not mean that the law against murder has no significance. Our business, in the national not less than in the international, field is the discovery of the institutions appropriate to an adequate enforcement of the law.

iv. *The Political Pre-requisites of an International Society.*

This brings me to the other aspect of the problem. What are the political pre-requisites of an international society? How are we so to organize its institutions as to maximize the probability that it can function in an adequate way? Here, again, the primary need is to recognize the bankruptcy of the theory of the sovereign State. So long as it can claim the

right not to be bound by any will but its own, the conception of an international society is theoretically impossible. If, for instance, America and Russia are free to decide when and how they will act independently of the wills of other States; if they refuse to accept the obligations the assumption of which seems to the rest of the world essential to the maintenance of a rational social order, then clearly there is no means of organizing the hinterland between States, and, *a priori*, they remain in a state of contingent anarchy. In the political realm, therefore, as in the realm of law, it is important to postulate the non-sovereign character of the State as the condition of the *civitas maxima*. Nothing else makes effectively possible the adoption of common rules binding upon all; nothing else, also, gives adequate guarantee of a *modus operandi* which will secure the subjection of individual States to their impact.

Here I must go back to first principles. The business of government is the satisfaction of individual human need. In seeking, therefore, the foundations of a world order, it is the wants of individuals that we must bear in mind. The happiness of States has, after all, no meaning unless it is their happiness. And, from this angle, it follows that the individual is, for the world community, not less real as a subject of rights and duties than is the State. Its law must protect and oblige him not less than it protects and obliges the corporate entities with whose Governments it will be largely concerned. If, that is to say, the international adventure is to be worth while the right of the world community to have direct access to its citizens independently of its access to them through individual States is clearly paramount.

The consequences of such a view are obvious. Let me

illustrate them from a single field. If we assume that a world community exists for the protection of individual men and women, it follows that these, not less than States, are the subjects of international law. It follows, further, that an individual who is deprived of his rights under that law is entitled to redress even when the offender is a powerful State. Suppose, for example, that the individual is a German living on Polish territory, and entitled to the rights guaranteed to him by the Minority Clauses of the Treaties of 1919. It would then follow, on my argument, that he should be able to appeal from the Polish State, should it deny him those rights, to the appropriate international institution, through whatever procedural forms that may be devised, for the protection which is his due. And, *mutatis mutandis*, such a position should, I suggest, obtain over the whole field of international life.

Let me put this in a generalized way. In modern society there is a system of conditions without which no man can hope to realize the potentialities of his nature. Access to these conditions is therefore a natural right in the sense that a denial of them, or any one of them, is also a denial of the potentialities of his nature. The world community must therefore protect him in these rights as the essential condition of its existence. To attain this end, it clearly, then, needs the powers necessary for this purpose. No State can, from such an angle, possess a competence which would entitle it to deny the jurisdiction of the world community in any sphere to which, for this purpose, the latter must have access. It does not matter what that sphere may be. If, for example, physiological knowledge tells us that a limitation of the hours of labour is essential to human well-being, the world community must impose that limitation upon States; and the



latter have the obligation to accept the orders so imposed. States, in fact, become, in this context, administrative provinces of the world community. Historical and psychological facts make them convenient centres of administrative reference. But they can have no right beyond that of the world community from which their ultimate authority is derived.

I am not thinking of a centralized world community so uniform as to deprive individual States of their special national character. I am thinking only of the fact that there is to-day what may be termed a plane of individual human need, the control of which must be international in character if it is to be adequate. Upon that plane, separate States cannot be paramount simply because, if they are, the result is the defeat of human need. Take any of the problems which arise under the different sections of the Covenant. Take, for example, the principle underlying the system of mandates. Is it not clear that the individual mandatory State cannot be regarded as other than a trustee for the League, that, accordingly, a sovereign power over the mandated territory belongs to the League only, that the latter has the right both to confer authority, to restrain its exercise, and, if need be, to revoke it? Is not the inherent objective of the mandatory principle one incapable of attainment except in those terms. If, to take a very remote possibility, it were proved to the satisfaction of the League that Great Britain was evading the purpose of its mandate for Palestine, would it be possible for the League to lack the authority at least to intervene, and, if necessary, to go beyond intervention, to alternative methods of control to carry out the objective which the Mandate implies? I take a purely hypothetical instance. But it serves, I hope, to emphasize my point that States are

servants of the world community and not its masters. And because they are servants, the power to enforce mastery is essential to the very nature of a world community.

Let me emphasize again the point I am trying to make. No world order can achieve its purpose unless its members are regarded directly as its citizens. They must owe it allegiance as essentially as they owe allegiance to the individual nation-State to which they belong. There is no other effective way of enabling a world community to have primacy over all other interests within its ambit. Exactly as in a confederation the relationship between the whole and the individual citizen lacks the immediate pungency of a contact such as that of the individual citizen with the United States, so, in a community like the League, its impact upon persons within its member-States is too indirect to give it effective and continuous reality for them. It remains outside their intimate consciousness. They think of it—quite rightly—as something to which they belong only peripherally through their Governments; and it is urgent to overcome this weakness if the world community is effectively to protect the interests with which it is charged.

What are those interests? They are, I suggest, the protection of the rights of men in the sense in which I have used that term; and, therefore, the organization of the institutions necessary for that protection. It is clear, for instance, that men who are slaves cannot enjoy those rights; and the world community must be able to abrogate a condition of slavery. But since there are States in which slavery still persists there must be a means of overcoming their resistance to necessary action; to that end the power of a single State to block action by its recalcitrance is unacceptable, and the rule of unanimity, which at present safeguards that

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recalcitrance in the League, must clearly go. Its presence, indeed, is intelligible enough. Those who built the League in 1919 could not have achieved its acceptance had they abandoned the notion of sovereignty. For, in the atmosphere of war, the sovereign power of the State, inflamed by bitter nationalism, had attained an authority too imperious to brook denial. And even to-day its prestige still remains higher than that of any alternative that has been put forward. Only a long evolution will witness its final disappearance.

In my own view, the best way to approach the problem of the form of the world community is through the study of the functions it must undertake. Here, obviously enough, we are presented with the difficulty that any study of the subjects of important international incidence, which lend themselves, therefore, to international control, meets immediately with the fact that the sovereign State controls their organization. The scale of armament, currency questions, international indebtedness, labour conditions in different communities, the codification, even, of international law, access to raw materials, each of these is a matter upon which the will of the individual sovereign State is paramount. We cannot say to the United States of America that a system of insurance against unemployment is part of the panoply of any adequately organized modern community because the League has no power to insist upon the creation of such a system even for its own members. We cannot say to Italy that the denial of freedom of speech to its citizens is uncivilized; for that is a question of domestic jurisdiction with which the League has no right to concern itself. Yet both the one and the other belong, as I think, to that category of rights the protection of which is an elementary function of a world community.

No really organized world community is conceivable in which there are wide differences of interest between classes, or in the constituent States of which there are incompatible philosophies of Government. This is a hard saying; I believe it nevertheless to be a true saying. A world community cannot persist without war in which there is no permanent common ground say between Russia and America. The great issue of the next century is likely to be the effort, through international negotiation and public opinion, to prevent the exacerbation of either to the point of conflict. That is not done by Kellogg Pacts, however well-intentioned. It is only done by the full realization that nothing is in fact gained by conflict. And that is realized only when the results of peace are equally beneficial to the parties to its maintenance. Grant that a body like the League can render immense services in mitigating the prospect of war, the real security against it lies in national states of mind. And these, in their turn, depend upon things desired by nation-States and the ways of desiring them. The problem turns upon the values we learn to attach to things we want—values in the determination of which national prestige clearly plays an overwhelming part. What are we to do before difficulties of this magnitude?

Comparatively, it is easy to build an international legislature, executive and judiciary, to assign to them their respective spheres and then to assume that the world community has been built. But no one who reflects, say, on the problem of disarmament, can really believe that this is the case. One has only to read the memoranda sent in by the nation-States in view of the Conference of 1932 to see that the mere organization of institutions does not take us very far along the road. We can go some distance, undoubtedly, by abrogating the

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rule of unanimity. We can go, I believe, still further by travel along the path indicated by such instruments as the Optional Clause. There is permanent and abundant creativeness in the model provided by bodies like the Permanent Mandates Commission; if problems like those of minorities, of raw materials, of migration, could be entrusted to similar institutions, we should have taken a real step forward. But, even so, we should not, I think, have met the issue that confronts us in anything like its true complexity.

For this, at bottom, depends upon two considerations. There is, first, the social problem in the modern State and all that it implies; there is, secondly, the inadequacy of the forms of Government within the modern State for their task. I cannot even attempt to deal with these grave matters completely. Of the first I can only say that social systems which, like modern Capitalism, cannot solve the problem of equality are bound to be rooted in conflict; that, accordingly, those who make an equation between Capitalism and war as correlative terms seem to me to have right upon their side. If this is at all true, it would follow that an international planned economy which deliberately aims at equality as its main objective is essential to the making of a world community. Of the second, I believe that we must experiment with the possibilities of functional devolution. We must seek to make things like cotton, coal, wheat, gold, units of governance in the same way as territorial areas, and link them up with the operations of the League. By so doing, as I think, we can separate the solution of the problems to which they give rise from the impact of that prestige which is embodied in all negotiations conducted directly through Governments. Something of this truth, I would add, has been realized by those who were responsible for the constitu-

tion of the International Labour Office. The presence, in its different national delegations, of representatives of Capital and Labour, emphasizes in a notable way the international linkages which each possesses; and those who are entitled to speak tell me that its effect upon the making of conventions has been wholly good. A Government delegate who attacks a proposed convention does not find his task easier when he is promptly attacked in turn by the Labour representative from his own State. The result is the wholly admirable one of preventing the fictitious unity of the individual State from hiding the existence of a body of opinion within that State which finds at Geneva its natural relationships with kindred opinion outside. No one can doubt that, had the representation of the I.L.O. been merely governmental, the progress of its work would have been far more slow.

I do not, of course, doubt that for a long time to come the essential work of international organization will be centralized, as now, in Governments. But exactly as that system is itself breaking down in the national State, so, also, I venture to think, it will prove impossible to build an adequate world community upon such a basis. We must expect a much more complex structure at Geneva than any we have so far envisaged. We are likely to see a great multiplication of peripheral organs like the International Labour Office, the Bank of International Settlements, and the Institute of International Agriculture. They will do most of the work of sifting data for the consideration of statesmen in the Council and the Assembly; and the latter, in particular, is likely to become an organization for registering results achieved in technical bodies, a means of appealing to public opinion rather than a legislative body in the common acceptance of that term. For the latter implies a system of party

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organization for which no basis at present exists in the consciousness of nation-States. There are no coherent lines of division in opinion which would make that possible in the near future. The emergence of the ultimate problems of distribution and social control is impeded by considerations of national prestige. Yet these show signs of yielding before the pressure of economic facts. Gold, wheat, coal—these raise issues which so transcend State-boundaries as to make the latter largely devoid of meaning. Certainly it is at least not unthinkable that the next generation will see immense changes arising out of the necessity of imposing uniform solutions over the vast area they affect; and this may well give birth to divisions of international economic opinion which wholly transcend the type of frontier to which we are accustomed.

### *v. The Issue before Us.*

I have sought to show that the necessities of a world community require conceptions largely different from those to which we have become habituated in the political science of the last three hundred years. Ideas like those of sovereignty and the national State have reached their *apogée*; they no longer correspond to the facts that we confront. We need to plan our lives upon a new scale and in new terms. Before our eyes there grows a world which needs cosmopolitan thinking. Fully to achieve its consequences we must have institutions of a similar amplitude. We cannot attain them if we remain imprisoned within a philosophy which corresponds to an epoch with different necessities from our own.

We have lived through three centuries of international anarchy; the time has come to move to the plane of international organization. To do so requires planning upon a

world scale; and this, in its turn, demands a sacrifice of many interests which are not unlikely to suffer from the application of planning. This is, I think, inevitable. We cannot effect a revolution in the minds of men without pain. That was true of the Reformation; it was true of the French and Russian Revolutions. We are bound to destroy hopes and ambitions which have, in the past, played a large part in the determination of human history. I do not pretend to know whether we shall be successful in the effort; I can only venture the prophecy that we must plan our civilization or perish. We must plan it, as I think, realizing that the ideal of social and economic equality is a necessary postulate, in the long run, of any wisely ordered world community. We must infer from that postulate the final passing of a world built around the ideal of *laissez-faire*. We shall require new concepts of freedom and individuality, new channels through which these may flow to the realization of personality. If we can plant in the consciousness of this generation a sense of the nobility of this ambition, the very difficulties we face may be the source of our ultimate salvation.



## CHAPTER X

### RUSSIA AND THE WORLD COMMUNITY

R. SHERWOOD EDDY:

#### i. *Ideals and Practice.*

SOVIET RUSSIA and the League of Nations stand in striking contrast to one another. Each represents the beginning of a new world community. Each, confessedly imperfect, is the first embodiment of an ideal. The League of Nations is the first tentative embodiment of its kind, of a co-operative world community in the midst of an anarchy of competing and warring nationalisms. Soviet Russia, on the other hand, is the first crude embodiment of its kind, of the ideal of a new social order, of a classless society, of an unbroken brotherhood based on social justice. Each in practice and in the means used to achieve its high aims seems to the other to contradict these ideals almost to the point of hypocrisy.

But in neither case shall we diagnose the situation aright unless we give full value to the high idealism that lies at the heart of each in its ends and aims, and also subject both to rigorous and impartial criticism.

The Constitution of the U.S.S.R. thus states their ideal aims: "The abolition of exploitation of men by men, the entire abolition of the division of the people into classes, the suppression of exploiters, the establishment of a Socialist society and the victory of Socialism in all lands." Their avowed aim is to abolish all parasitic elements in society; eliminate all secret treaties; free from enslavement millions of labourers in Asia, the colonies, and smaller nations; obtain self-determination for oppressed nationalities; provide a

complete education free for all; and the ultimate equality of all citizens regardless of race and nationality. They aim to end the domination of Capitalism, make war impossible, transform the whole world into a co-operative commonwealth, and bring about real human brotherhood and freedom.

The aims of the League and of the ultimate world community are equally idealistic, but are too familiar to be quoted at length. These high aims of the League, however, are fulfilled, or frustrated, by the realistic and sometimes selfish and sordid capitalistic and militaristic nations that compose it. The high ends of Soviet Russia also are often executed by the ruthless means of a dictatorship frankly based upon force, so that Russia is a land not only of limitless possibilities, but also of limitless contradictions that permeate the entire system. For illustration, Russia leads the world in having perhaps the most modern and purely redemptive penal system among the nations; yet in her treatment of her class enemies she has been probably the most heartless and gratuitously cruel of all nations that make any claim to be civilized. Such contradictions run side by side throughout the whole of Russian life to-day.

Keeping in mind and giving full value to their high ideals, we must deal here with the very imperfect actual reality of Soviet Russia and the League of Nations in their relations to each other and their mutual shortcomings.

Whatever their ideals, they represent two conflicting social orders—those of Capitalism and Communism. Whatever the co-operative ideals of the ultimate world community, the League is made up at present of more than fifty Capitalist armed nations. And, however it has been forced to compromise or postpone, Russia is working under the most thoroughgoing possible system of Socialism toward Com-

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munist. Russia represents nearly one-sixth of the land area of the globe trying the experiment of ultimate Communism, while the League is composed of the nations that make up most of the remaining five-sixths of the world, dominated by a more or less modified system of Capitalism. Up to the October Revolution in Russia, we had in the world prevailing one social order, with nations advanced or backward, proceeding upon the same general lines of evolutionary development. But since that Revolution we have in the world not one, but two social orders, conflicting and apparently irreconcilable. And harnessed to a new ideal, Russia, the largest country in the world, four times the area of all the rest of Europe combined, with the largest white population in the world (162,000,000, and increasing faster than any other country in the world, at the rate of ten thousand a day or 3,657,000 a year), must be reckoned with.

### ii. *Russia and the League* (see Note, p. 226).

Recently, during my seventh visit to that country, I endeavoured to ascertain Russia's exact attitude and relationship to the League of Nations. While quoting no one and holding no one but myself responsible for the opinions expressed, I will endeavour to state their position as faithfully as possible as though in their own words:

'Our attitude to the League of Nations is frankly unfavourable. It is based upon the following principles and considerations:

'1. We do not recognize the League as an organization of universal character, despite the fact that a majority of the nations are members of it. Although its professed ideal may be a co-operative world community, it is actually dominated by a few Great Powers. If you turn from the ideal to the actions and practices of the League, in spite of the technical equality of

all its members, all important questions are practically decided beforehand by two or three of the leading powers. There is no real equality with full respect for the sovereignty of each nation. The decisive role is played not by the large Assembly but by the small Council, and by the few that hold permanent seats upon this Council. As in the case of the dispute between Lithuania and Poland, the small nation is nearly always sacrificed to the greater nation and its powerful military allies.

'2. We do not recognize the validity of the sanction clauses of Article 16 of the Covenant. We do not believe that sovereign nations should thus be coerced by others. Yet the organization of the League is based upon this right of sanctions. Thus the Great Powers decide the fate of all others. They may and actually do impose their will upon others, whether smaller or weaker nations, or conquered colonies or "backward peoples" in a world that has become largely the preserve of the imperialism of a few Great Powers. This policy of sanctions, this coercion by the armed Powers inevitably means world war in the future.

'3. Membership of Soviet Russia in the League as at present organized would be absolutely unacceptable and indeed unthinkable. We have a peculiar social structure founded upon principles which are in flat contradiction to those which underlie the nations that compose the League, and the League itself.

'These differences do not exclude a very large measure of voluntary co-operation between us and the rest of the world. We have proved beyond all doubt the possibility and desirability of such co-operation. But such co-operation can only be realized on a basis of absolute freedom for both and in the mutual interests of both.

'Differing as we do and must from the rest of the world we cannot imagine an impartial arbiter who could decide questions between us and others. The nations represented in the League, in the Court of International Justice, and in the conferences, conventions, committees, or bodies of arbitration or conciliation appointed by them, are, and would inevitably be, Capitalist

nations which would almost of necessity be opposed to a workers' republic or a unique social structure like our own. Since we recognize the impossibility of such an impartial or neutral arbitrator we cannot recognize the League or its subsidiary bodies in any such capacity.

'The activities of the League have deepened our convictions regarding the three principles mentioned above. The League has not only not been neutral or impartial, but it has actually interfered in our domestic affairs, as in the dispute with Finland over Karelia and during the rebellion in Georgia, which is a constituent part of the Soviet Republics, yet which was regarded by the League as independent in 1924. The League even attempted to send a Committee of investigation to the U.S.S.R. without the consent of our Government. The League also passed a resolution introduced by Finland contemplating the giving of assistance to States at war with the U.S.S.R., whether or not we were the aggressor.

'These are only a few illustrations out of many that might be cited to show our attitude to the League which has remained consistent and unchanged ever since it was formed.

'If it be asked whether the League could be modified to meet the demands of Soviet Russia, we would be compelled to say that even if Article 16 should be altered or amended, the League and the nations that compose it are so inherently, intrinsically, and unalterably capitalistic, imperialistic, and militaristic that these two social orders must stand inevitably in opposition to one another. We, therefore, cannot join the League under any conditions whatever.

'We recognize, however, that there are many human activities inaugurated or protected by the League, such as sanitation, transportation statistics, postal regulations, disarmament, etc., with which we can and do and will co-operate. We will take a practical part in all technical questions which concern us and will decide each case upon its merits. Thus we hope that we can and will increasingly co-operate with the activities of the League and with

the nations that compose it, with whom we have entered into a whole network of relations.

'If we turn from the organization and activities of the League to the important question of disarmament, our position is as follows: We are and always have been consistently in favour of disarmament. When the Russian State was born in 1917, it was our aim "to make war impossible, to transform the whole world into a co-operative commonwealth, and bring about real human brotherhood and freedom." Even through the hard years of civil war and intervention, we have put forward repeated offers of peace.

'In 1922 Chicherin raised the question of disarmament at the conference at Genoa, which was the first in which we took part. We raised this issue although it was not on the agenda. On the motion of the French, the question of disarmament was taken off the agenda despite our protest.

'In November 1922 we invited the border States to Moscow and proposed a reduction of armaments, but our offer was not accepted.

'From 1925 we have been concluding pacts of non-aggression and neutrality with other nations. These differ from many of the League pacts which are under military alliances or conditions, open or hidden, or are often treaties of mutual military aid which only invite suspicion, hostility, and conflict. We desire to localize every possible conflict. Since 1925 we have concluded pacts with Turkey, Germany, Persia, Latvia, and Afghanistan. Four of these have been renewed. Other Governments have failed to enter into similar pacts with us. Soviet Russia not only signed the Kellogg Pact, but was the first to ratify it. We took the initiative in entering into the Litvinov Protocol with our neighbours.

'Regarding the preparatory disarmament conferences, we took no part in the first three sessions because of the assassination of our representative, Vorovski, in Switzerland, and the refusal of that country to give satisfaction to us. As soon as the Swiss

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Government had accepted our conditions, beginning with the fourth session, during the fifth and the first and latter part of the sixth sessions, we have been in attendance.

'When we first came to Geneva we proposed the complete, general, and immediate demolition of all armaments. The Preparatory Commission, however, would not even discuss our proposals, but postponed the issue to the meeting in February 1928. When our proposals were printed, distributed, and discussed, no speaker could explain just what danger to peace general disarmament would be. But our proposals were finally rejected because certain clauses of the Covenant speak of the limitation and not the abolition of armaments. Thus the very Covenant of the League is made an obstacle to disarmament and to peace.

'We were unabashed although we had repeatedly demonstrated our desire for peace, and then introduced our proposal for the partial reduction of armaments. The Preparatory Commission, apparently stunned and stupefied by our energy, postponed our suggestions to the next session thirteen months later. Then they rejected our reduction proposals and refused to strive for real disarmament.

'The Preparatory Commission would have been glad to get rid of our Soviet programmes, and many hoped we would leave the Conference, but we saw our duty and stood to the last for general or partial reduction of armaments. We stayed to criticize each paragraph of the Draft Convention, and to introduce our amendments, but all of our proposals were rejected. The Draft Convention represented the refusal of the remotest possibility of reduction, and practically legalizes armaments and makes them free from any effective control. We were therefore forced to declare the Draft Convention unacceptable. The German delegate, von Bernstorff, was right in saying that the Convention was an insurance against any danger of disarmament.

'Soviet Russia, therefore, stands for disarmament, for peace, and against all imperialist and nationalist wars. We are not, however, and have never professed to be "pacifists." We

have always held the right of every nation to internal revolution when conditions make it imperative. We are now and always will be ready to back up our proposals put forward by Litvinov at Geneva. We stand always for any and all disarmament that is real and effective, and at the coming Disarmament Conference we will be ready to accept any genuine proposals to this end. We do not look upon revolution, however, as in the same category with war. We believe that no nation has a right to make war upon another, or to build up its armaments for aggressive warfare. Revolution is an internal or domestic affair and does not require costly armaments and large standing armies. We are thus for peace and against war, and for disarmament, but not for the present principles and policies of the League of Nations.'

In the foregoing the writer has endeavoured to state the attitude of the Russians to the League, not his own, for he believes the League to be the chief instrumentality for peace in the world to-day.

iii. *Russia not Organized for Military Aggression.*

In taking the above position Soviet Russia points out the enormous growth in armaments and preparedness for war among the Great Powers since the formation of the Disarmament Commission in connexion with the League. Russia may well complain that within five years since the first meeting of the Preparatory Commission the five Great Powers, including the United States, have increased their military expenditure 27 per cent., by five hundred million dollars a year. When coupled with the constant protestation of high idealism for peace, this appears to them very much like sheer hypocrisy.

The writer recalls his last interview with Lord Thomson, British Air Minister, before he was dashed to his death in



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France. We were speaking of the expenditure for war of the two great Anglo-Saxon nations which lead the way both in their profession of principles of peace and in their actual expenditures for war. Great Britain was then spending, according to Lord Thomson, more than £200 or \$1,000 a minute on preparedness, but the United States was spending much more than this. Whereas before the war she was devoting to military purposes some \$244,000,000 a year; for the next five years she will be spending over \$800,000,000 a year on her Army, Navy, and Air Force, more, in fact, than any other nation in the world. This amounts, when war debts and pensions are taken into account, to some 72 per cent. of her national budget, according to the statement of her president.

May I quote from Mr. Raymond Fosdick's article in the *Atlantic Monthly* of August last, on 'Our Foreign Policy in the Looking-Glass'?

'Is it true, for example, as Mr. Coolidge said recently, that the United States has become "a leader in limitation of armaments", while other nations "constantly think in terms of war"? In terms of actual cost for naval armament . . . the United States is to-day spending 187 per cent. more than she spent in 1913, Great Britain 10 per cent. more, and France 11 per cent. more. If army and air defence costs are added to navy costs, the United States is this year spending \$842,000,000, Great Britain is spending \$560,000,000, and France \$431,000,000. In 1914 the officers and men of our regular forces, both Army and Navy, were about 164,000; to-day they are roughly 250,000. Our citizens' army, including the National Guard and other forms of reserves, increases these totals to about 299,000 in 1914 and approximately 728,000 to-day. . . .

"The tentative suggestion of Great Britain looking toward the "eventual abolition" of the battleship was summarily turned

down by the United States. Similarly the American delegation declined to consider the reduction of aircraft carriers, and rejected the formal proposal of Great Britain to extend the age-limit of vessels, a proposal which would have permitted substantial savings in replacement of costs. . . .

'A protocol prohibiting the use of poison gas and bacteriological warfare was drawn up in Geneva in 1925, largely on the initiative of an American, ratification was defeated in the Senate as the result of efforts by the American Legion, the Chemical Warfare Service of the War Department, and commercial chemical companies. The United States and Japan are the only Great Powers which have failed to ratify this ban. Incidentally the United States has spent over twelve million dollars in the last ten years in furthering the development of gas warfare. Similarly a convention signed in Geneva in 1925 for the supervision of the international trade in arms and ammunition has never been ratified by the Senate. . . .

'In the Briand-Kellogg Pact we covenanted never to seek the settlement of disputes *except by pacific means*, yet our whole policy is that we will leave to the improvisation of the moment both our attitude and the method to be employed. When the crisis comes and the world is in flames, we will decide whether or not poison gas is to be used; we will determine whether bacteriological warfare is permissible; we will try to reach an agreement with other nations as to a proper method of liquidating the dispute; and we will get the Senate by a two-thirds vote to concur. This is our theory. Apparently 1914 has taught us nothing.'

On the other hand, the military expenditures and the relative size of the standing army of Soviet Russia when compared to neighbouring nations are most favourable. The Red Army and Navy have enrolled 562,000 officers and men since 1924. The Red Army is a class weapon for the defence of the proletarian revolution. It is an army that

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would be strong in retreat, but neither adequately equipped nor trained for strong offensive warfare. A comparison with the military strength of neighbouring nations and of the industrial programme of these nations shows where Russia is placing her emphasis.<sup>1</sup> It is not in military but in economic

1931.		Population	Size of Army	Soldiers per 1,000 People
Poland ...	...	29,589,000	266,000	9
France ...	...	40,743,000	596,000	14
Roumania ...	...	17,153,000	186,000	10
Soviet Union ...	...	160,000,000	562,000	3.5

In the United States at least 72 per cent. of the national budget is devoted to military or war purposes. In Russia 63 per cent. of the revenue is devoted to industrialization, 21 per cent. to education and cultural purposes, 10 per cent. to administration and defence combined, and 6 per cent. to remaining needs.

### iv. *The Five-Year Plan.*

Russia's relation to the rest of the world is at present conditioned by the Five-Year Plan, which aims at transforming the Soviet Union from a prevailingly agricultural into a genuinely industrial nation with a self-sufficient and balanced economy. Within five years they contemplate increasing their production in agriculture by 55 per cent., in heavy industry 300 per cent., in electric power output 450 per cent.

The Plan would seem not only impossible, but ridiculous, were it not for the fact that Russia loves to attempt the impossible. Within three years she has more than doubled her pre-war output of coal. Oil, electrification, and agri-

<sup>1</sup> *Armaments Year Book (League of Nations), 1930-1931*, p. 872.

cultural engineering have already more than fulfilled the requirements of the original plan. The original programme had counted upon 22 per cent. of the peasant population being collectivized within five years. But already 14,057,300 peasant homesteads of poor and middle peasants, or 57·1 per cent. of the total, have been united in collectivized farms. In normal times and good years the United States has increased her industrial production by an average of about 4 per cent. a year. In the first year of the Five-Year Plan Russia increased her production 23·4 per cent., or 2 per cent. above the goal. In the second year she again maintained an advance in production of 24 per cent. This is unprecedented in economic history.

Among many witnesses consulted in Russia the consensus of opinion was overwhelmingly in favour of the belief that the Plan will succeed. One American expert now resident in Russia said: 'We no longer discuss the Plan as an open question, but take it for granted and accept it as an almost accomplished fact. Important parts of the Plan have already been completed in three years; most of it will be finished in four; some backward elements, like coal, steel, and tractors, may take five years or even a little longer to complete. But they are certain of economic success and nothing now can stop them.' There are, of course, short-comings and elements of failure. Quality is sacrificed to quantity, and skilled labour is lacking. The inefficiency of the red tape of bureaucracy, the unwillingness of Russian engineers to assume responsibility because of previous suspicion and penalties imposed upon them, the eagerness for the giant construction of plants which they are not at once able efficiently to manage, the strain to which the whole population is subjected for the accomplishment of the Plan—these

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and many other conditions are heavy handicaps. But outweighing them all there is the new spirit of the Russian people, especially in the ranks of youth. In a secluded spot where no foreigner was supposed to be present, I recently witnessed some beautiful folk dancing by a joyous company of boys and girls. At the climax of the dance, as they swung forward to music, they ended with an enthusiastic shout like a college cheer in America—"The Five-Year Plan; *we will win!*" Here was no stern task imposed upon them by a dictatorship of the older generation, but a spontaneous, joyous song from the unconquerable heart of youth. At various periods in human history this crusading and sacrificial spirit has appeared, and it has repeatedly accomplished great things. More than any place in the world to-day it has erupted Russia with almost volcanic fury. She is building a new world community. The spirit of service and sacrificial sharing on the part of leaders and workers of youth and age in Soviet Russia to-day is transforming the casual, lazy, fatalistic Slav. The vast and rapidly extending plan of industrialized agriculture is changing not only the economic conditions of an age-long poverty; it is transforming the physical landscape and, even more important, the mental psychology of the peasant as well.

### v. *What is Communism?*

Since the psychology of an opposing social order demands criticism first, we are compelled to ask what are the outstanding evils of the system? From our point of view there are essentially three: a dictatorship with its constant danger of tyranny, the policy of world revolution by violence and destruction, and an attitude of bigotry and intolerance which manifests itself in such matters as the persecution of religion.

Their dictatorship, though in aim democratic for the working class, sometimes takes the form of tyranny and sometimes of terror. It must obviously dominate the entire Government. But that is impossible without complete control of finance, of industry, and of collective agriculture. All pupils and students, and as quickly as possible all teachers, must be brought under the scheme of dictatorship. All education thus becomes propaganda. All that the people read, all they see, all they are told must, as far as possible, be 'truth' according to the dictatorship. Therefore every radio, every moving picture, every newspaper, and every line of the Press must tell the same story, or permit only criticism by the proletarian class. This dictatorship extends to almost the whole life, but the principle of 'centralism' ever narrows the monopoly of power to the few. Thus, in the end, a dictatorship of the whole working class, or nine-tenths of the population, has a tendency to narrow itself to one man and a few loyal associates or followers who fill the interlocking positions of the secretariat, political and organization bureaus.

Our second indictment of the system is the dogma that the world can only be saved in one way, by the overthrow of the Government in every Capitalist country, when the time is ripe, through a destructive revolution of the Russian type. The whole process is a 'continuing revolution' which covers all of life and a vast period of time. Under the alchemy of Communism they are to sow dictatorship and reap liberty, to sow hate and reap love, to sow violence and destruction only to reap lasting peace and brotherhood ever afterward. This policy of world revolution involves complete reliance on force, and the distrust of moral suasion and the principle of consent. It involves contempt for, and enmity with, all

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patient, evolutionary, constitutional educational means as 'reformist', compromising and cowardly.

Finally, Communism is a dogma. It seems to hold inevitably an element of bigotry, of intolerance, and of fanaticism implicit in it. By an over-simplification all history is ultimately forced into the arbitrary channels of two classes and their inevitable conflict. Russia tolerates religion to the extent of still permitting worship in the majority of the churches. But many are in exile, some are persecuted for their religion, and the leaders frankly state that they intend to do all in their power finally 'to liquidate this superstition', to extirpate this 'poisonous' growth from the human heart. And here, in sympathy at least, we are all in their crucible. Our civil liberties, our religious freedom, our tolerance, our liberalism, our whole complex of priceless values, which the coarse thumb and finger of a materialistic dogmatism fail to feel—nearly all we most value in life is at stake. The whole system for the long-oppressed proletarian majority has economically meant release, creative expression, substantial betterment. But for some millions of the minority it is a prison house from which there is no escape.

Nevertheless, we must not let the evils of the system blind us to its merits. The Russian Revolution is like the French Revolution writ large and extended to the whole of life. Greater evil will probably result from it than from the Revolution in France. But far greater good also may eventuate from it than even from the liberty, equality, and fraternity of Republican France. Time will only permit the mention of three possible values in the Russian system.

I. The passion for social justice. Here, for almost the first time in history upon such a scale, we have the leaders of a whole nation, and that the largest in the world, sharing

wellnigh all that they have with the people. Property, profit, income; culture, music, art; leisure, recreation, enjoyment—all that they have, save power perhaps, is shared. Instead of asking special privileges, they impose upon themselves unusual sacrifices. Instead of asking special lenience, they demand the heaviest penalties upon Party members. Unlike the political 'boss' or party politician, instead of the lion's share of the material spoils, they prescribe a 'party maximum' of 225 roubles a month or \$3.75 a day. They must respond to endless subscriptions, demands, and appeals for fellow sufferers or comrades all over the world. The whole scheme involves incessant communal sharing. It is remarkable how, more than thirteen years after the revolution, they are able not only to perpetuate but even to increase this spirit. The goal of ambition always placed before youth is not only social service, but a militant crusade for the liberation of the workers of the world.

2. A second value in the system would seem to be the advance toward the goal of a classless society. Always excepting their class enemies, the principle of human equality runs through the whole system. It does not take much imagination to see how this principle of equality may in time appeal to every race, or colony, or possession that feels itself conquered or oppressed. Perhaps the searchlight of such a disquietingly challenging system may well be turned upon the evils, the inconsistencies, and the hypocrisies of older and more complacent systems, if the idealism of their own democracy fails to move them.

Finally, Russia furnishes a world laboratory of social experiment. By a system of trial and error, under a relentless realism, vast experiments may be tried in Russia that may prove of great significance for the world. Save where these



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are precluded by economic dogma, Russia is bold in experiments. Her whole life is in the melting-pot. Anything and everything must be scrapped if they can discover a better way. No other system ever so staked its very existence upon faith in the common man.

### vi. *A Final Synthesis.*

If we look forward to the probable future, the Capitalist world will probably not remain stationary. The vast process of socialization is everywhere at work and widely manifest. The uniting of industry in trusts and ever larger units is only part of this process. Russia also is not stationary, but is changing more rapidly than any country in the world. The vast work of education, not only in schools, but in co-operatives, trade unions, youth organizations, and local self-government, will have an almost inevitable democratic trend in ever-widening circles. No tyranny can permanently maintain itself even in Moscow. Perhaps the gathering force of socialization on the one hand, and of democratization on the other, both make toward a final and higher synthesis of human society.

If this be so, and if there be any philosophy of history, instead of one civilization possessing a monopoly of all the virtues assailed by a revolution that is a compound of all the vices, we have in the world to-day two antithetic and challenging social orders as thesis and antithesis, neither of them perfect or final, which may both make their contribution to a higher stage or a final synthesis.

NOTE (See Section ii, p. 212).

After interviewing members of the Secretariat of the League, and again while quoting no one, we may endeavour

to state the position of the League and its reply to Soviet Russia as follows:

Before taking up the various points of the Russian attitude, it is necessary to make a preliminary and general comment, namely, that the League of Nations is not *necessarily* identified with any economic system or order of society. To-day the League happens to be composed of States that are predominantly Capitalist because there is only one Socialist State in the world and it is not a member of the League. But the League might just as easily be a League of Socialist nations if its members turned Socialist, or mixed, if Russia joined. Its methods are sufficiently elastic and comprehensive. Indeed, China, India, Abyssinia, and Liberia are largely pre-Capitalist, and e.g. England or Sweden, or other Member-States when under Labour Governments are partly Socialist.

Nine-tenths of international law is pre-Capitalist and unaffected by the economic or social structure of the States recognizing the rules of international law. Indeed, Soviet Russia clings to most of present-day international law as strongly as do Capitalist States.

The world is composed of nations that cling to their political autonomy although bound ever more closely together by a thousand material and cultural ties. This fundamental fact would still remain a fact in a Socialist world just as it is in the present Capitalist or, rather, mixed era. The League is *not* simply a part of the Capitalist order to be contrasted with the idea of a Soviet order, but is a world-wide system of co-operation that would be just as necessary and would assume similar forms whatever the economic structure of the constituent States, and which to be fully effective should be universal.

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This is the fundamental position about which it is essential to be quite clear before proceeding to consider the Russian points *seriatim*.

(1) The Russians object that the League, although based on equality in theory, is really dominated by a few Great Powers. To this the answer is that the Covenant, because it is an attempt at a political and juridical organization of the world reflecting its material and cultural interdependence, must abandon the doctrine of equality of sovereign States, which is a reflection of international anarchy, and recognize realities. In any attempt at a confederation or federal constitution or other form of government, a compromise had to be reached between the conflicting claims of large and small human communities. Because the League is an embryonic world Government it must think in terms of human communities and not of abstractions such as States, or rather it must temper the claims of one by the needs of the other. The same compromise has been reached in every confederation or federal constitution, notably in the case of the Soviet Union itself, where the Russian Soviet Federal Socialist Republic has incomparably more weight in the councils of the Union and far greater representation in every organ of the Soviet Government than, e.g., the Caucasian Republics.

In point of fact in the practice of the League we hardly ever find the Great Powers acting as a group against the rest. On almost any question we find some Great Powers and some Small on one side, and other Great and Small States on the other side, with a third mixed group in the middle which is interested only in a solution holding some prospect of stability. That is so far as political influence is concerned. When you come to decisions before the Court or an arbitral

tribunal there really is perfect equality before the law between Great States and Small, as the Court has shown again and again, e.g. in finding for Turkey against France, or the Swiss against the French. Never have the Smaller States had so much influence as they have in the League, and the extent of their influence is affected only by their capacity to combine and act as a group. And their power is steadily growing. Sweden and Brazil have both used the veto power, as did Persia on another occasion, with far-reaching results. The exactly opposite argument is indeed often heard that the League is too loosely organized and depends too strictly upon the unanimity rule, and that we should take a further step towards centralizing power and enabling majorities to out-vote minorities. The one thing needed to refute the charge of undue influence by a few Great Powers is that the remaining Great Powers, namely, the United States and the Soviet Union, should also become members of the League!

(2) The second point is the Russian objection to the sanctions clauses of Article 16 in the Covenant. The objection is based on the view that sovereign nations should never be coerced, but the whole point of the League is a break with international anarchy by which States remained the sole judges of what is self-defence and as a corollary possessed the right to make war at will. There seems to be no way of surmounting this difficulty except either by federal Government of the world, or by States accepting some form of community judgement as to what constitutes self-defence, and this they will never do unless it is accompanied by the duty of the community to protect what it has decided to be a law-abiding State against what it has condemned as a peace-breaker. At this point the Russians seem to be joining hands with the worst militarists and

nationalists in different countries who stand for international anarchy and the untrammelled right to make war. Self-denying ordinances like the Kellogg Pact or other pledges not to make war mean almost nothing unless they are accompanied by some machinery for taking international decisions on what constitutes making war—as long as each party is sole judge of what constitutes self-defence, international anarchy, and with it war, continue unchecked.

(3) These considerations are strengthened when we come to the Russian refusal to accept any form of arbitration or judicial settlement or compulsory settlement of disputes, on the ground that no arbiters could be trusted to be impartial as between the Soviet Union and Capitalist States. This view rests on the fallacy that international law and the League are identified with the Capitalist order, whereas in fact they partly ante-date and partly transcend it, and in any case are independent of the present social and economic structure of the States members of the League. There is this much in the Soviet case that it would be desirable for them to negotiate an agreement, through the codification of law Conference or by any other means, with the Capitalist States on the particular points where the fact of their being a Socialist State affects their international relations; for instance, the status and rights of economic representatives abroad, the foreign trade monopoly, and similar matters. But nine-tenths of international law is accepted by them just as much as by Capitalist States, and there is no reason why they should not submit to third-party judgement as well as other nations. There is also no reason why they should not accept the duty to meet with other States to discuss threats to peace and how to avert them, such as is the duty of States members of the League and as was foreshadowed by President Hoover as a

result of the Kellogg Pact. That they reject in principle any such obligation would seem to be a further unfortunate outcome of Soviet self-righteousness, the hatred and fear and conspiracy mania which characterize the Bolshevik attitude towards the rest of the world, as well as the attitude of the Capitalist nations toward them. Although the Capitalist world certainly does not love them, it is simply not a fact that the Capitalists are busy plotting their overthrow. On the contrary, the rest of the world is acting far more in accordance with Sokolnikov's statement at the Economic Conference of 1927, repeated by Litvinov at the last meeting of the Preparatory Commission, namely, that a *modus vivendi* is possible between the Soviet Union and Capitalist States, and that such a *modus vivendi* must be sought.

Capitalist States are under no delusions as to the solidity and permanence of the Soviet Union and wish to do business on that basis, whereas the latter still seems to suffer from the illusion of an impending world revolution and still melodramatically attributes to others counter-revolutionary conspiracies that belong to the world of Edgar Wallace.

(4) In addition to their general criticisms of the League's constitution, the Soviets make allegations as to hostile action by the League against themselves. The first is that the League has interfered with their domestic affairs, as in the dispute with Finland over Karelia. Now Karelia is inhabited by a Finnish-speaking population, and was occupied by Finnish troops in the war of independence with Soviet Russia that followed upon the Great War. To be accurate, Soviet Russia recognized Finnish independence, but through the Red troops left in Finland after the war fostered and supported a revolution which the Finns put down. There was an exchange of letters between the Soviet and Finnish

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Governments concerning Eastern Karelia, in which the Soviet Union made certain promises. Finland considered that this gave her the right to raise the matter as a question of international concern, whereas the Russians contended that it was a question of domestic jurisdiction. Finland brought it before the Council, which referred it to the Court for an advisory opinion. The Russians refused to appear before the Court or to recognize its jurisdiction, and the Court then found that as Russia was not a member of the League and had consequently not accepted any obligations to discuss any threat to peace before the Council, they had no jurisdiction. Finland, it would seem, had more reason to be dissatisfied with this view than the Russians, and at any rate it seems grotesque to allege it as an act of interference by the League in Russian domestic affairs, or as showing hostility to Russia.

With regard to the claim that the League regarded Georgia as independent in 1924—just after the World War the Georgian Republic under a Menshevik, or moderate Socialist, Government was for a time independent and applied for membership of the League, which, however, was not accorded. The Russians then supported by an invasion of Russian troops a revolution started by Communists, which led to the subjugation of Georgia. From the Russian point of view this was an act of liberation, making Georgia part of the union of workers' republics, whereas from the point of view of a good many Georgians and a good deal of fairly intelligent and well-informed foreign opinion it savoured strongly of the old imperialism in a new guise. It took some years for the *fait accompli* to become recognized by the rest of the world, partly because the Soviet Government itself was not recognized by many countries. In other words,

some time after Georgia had, in fact, ceased to be independent the great majority of States members of the League had not yet recognized that it was part of the Soviet Union. That is all the basis there is for the allegation that the League recognized Georgia as independent in 1924, and it can hardly be adduced as a sign of hostility to Russia.

Again, the League is accused of having passed a resolution introduced by Finland: 'Contemplating the giving of assistance to States at war with the U.S.S.R. whether or not we were the aggressor.' This presumably refers to the convention for financial assistance to States that have been attacked. This convention, however, makes it quite clear that a State cannot qualify as being attacked unless its opponent has been found by the members of the League to be a covenant-breaker under Article 16 of the Covenant and unless it has undertaken beforehand to accept any measures enjoined by the Council for maintaining or restoring peace, or for settling a dispute, or both. It is therefore grotesque to allege that this convention is aimed against Russia or contemplates the giving of assistance to States at war with that country, whether or not the latter is the aggressor.

Finally, the Russian account of the proceedings of the Preparatory Commission for the Disarmament Conference appears somewhat self-righteous, and it is not possible to accept the view that the Draft Disarmament Convention, unsatisfactory as it is, makes impossible any real reduction of armaments. The Convention provides *methods* for reducing armaments budgets, naval, air, and land armaments as well as effectives, and it merely depends upon the States concerned to fill in the draft with figures implying real reduction as apart from mere stabilization. Whether the States concerned do, in fact, consent to such figures is another matter.



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Incidentally, Russia is, of all countries, the one which has observed the greater secrecy about the size and equipment of its military, naval, and air forces.

While other countries publish data reproduced in the *Armaments Year Book*, it has been impossible as yet to find anything adequate from Soviet sources that gives any official indication of the real state of Russian armaments. The figure usually stated in Russian books is 562,000 as the effectives of the Red Army ever since 1924. If we add the reserves and the forces of the G.P.U., it might make a total of some 800,000, which is not as large as the forces of neighbouring nations in proportion to population. In the last five years Russia has increased her military expenditure from \$224,976,500 to \$579,426,500, or more than double that of five years ago. In view of inflation and the fall of the value of the rouble this may not represent an actual increase in armaments.

Although officially Stalin may have accepted the doctrine that the world revolution is indefinitely postponed and that consequently the Soviet Union must find some *modus vivendi* with the Capitalist world, this view is highly antipathetic to the rank and file in the Communist Party, has not effectually penetrated their consciousness, and is not the view on which the Soviet Government appears to act consistently. They still hover between the mutually destructive ideas of appearing as the Government of a stable State doing business with other stable States, and as leaders of a revolutionary party which is shortly going to sweep the world. Until they make up their mind between these two courses, the relations between the Soviet Union and the rest of the world will continue on the present half-and-half, tentative, and unsatisfactory basis.

believe the attitude of the Soviet Union to the League is developing on the same lines as that of America: that is, that nothing would succeed like success. In proportion as the League plays an important part in matters that really interest Russia, e.g. tackling the economic crisis by international action, the Russians will be impressed. In proportion as the United States co-operate freely and fully and are friendly to the League and take the League seriously, the Russians are impressed. If ever the United States worked out some agreement for permanent association with the League, it would make a big difference to Russia's attitude; and if ever the United States entered the League, with or without reservations, the Russians would probably immediately begin to think of entering in their turn.

## CHAPTER XI

# AMERICA AND THE WORLD COMMUNITY

By Professor JAMES W. GARNER:

### i. *The World Community.*

I INTERPRET the subject that has been chosen for me, to have reference to the relations between the United States and what has been called 'the world-community', and particularly to the role which the United States plays, or should play, as a member of that community. I assume that the civilized nations of the world to-day constitute a veritable community or society of States, which is both *de facto* and to some extent juridical in character, and in which each nation plays or should play a role commensurate with its capacity and opportunity; that as a member of this community each is the titular of certain rights and the beneficiary of the advantages which result therefrom, and is bound by corresponding obligations and responsibilities.

This international community, once little more than a dream or aspiration, then an idea without objective form, has in the course of recent years acquired an organization with machinery and institutions; it is united by a variety of bonds, economic, political, and even legal, and it possesses common organs through which the nations act in concert for the achievement of common objects and the advancement of the general interests of mankind.

In this respect I find myself somewhat in disagreement with the opinion expressed, if I understood him correctly, by Professor Zimmern. Practically all writers on international law assert the existence of such a community which they

call by different names, although they would agree with Professor Zimmern, of course, that this community has not acquired the same highly developed organization nor does it possess the same sort of common consciousness which you find in a local community or a State.

Professor Zimmern has referred to certain events which, in my judgement, are evidences of a world-consciousness, the existence of which he seems to have denied—for example, the action of the League of Nations in assisting Austria during her financial difficulties. The establishment and undertakings of the League of Nations are, in my opinion, evidence of world-consciousness. Other evidences might be multiplied.

ii. *America as a Member of the Community.*

Although the United States is not yet technically a member of the juridical organization of the world which has recently been set up by the other nations, and therefore is not bound by certain special obligations which they have assumed, it is none the less a member of the world community to which I have referred, equally with the others, and as such must, as I have said, bear a large share of the common responsibility which devolves upon each and every member of that community. It could avoid its share of that responsibility only by withdrawing from membership in the society of States and living a life of complete isolation—an eventuality which is impossible and unthinkable.

As President Wilson, speaking for America, once said: 'We are participants whether we would or not in the life of the world; the interests of all nations are our own also; we are partners with the rest; what affects mankind is inevitably our affair as well as the affair of Europe and Asia.'

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On another occasion he remarked that there was only one standard by which the foreign policy of the United States could be measured: namely, the honour of the nation and its obligations to the peace of the world. The truth of what the President said is so self-evident that it is not denied even by the most extreme isolationists in the United States. Even they admit that America is a part of the world community, and that as such she is under *some* responsibility to co-operate with the other nations in common undertakings for the advancement of the general interests of the world.

But they differ from Mr. Wilson and those who adopt his view, both as regards the *form* which American co-operation should take and the *degree* to which it should be extended. Instead of organized co-operation they advocate for their own country what Senator Lodge called 'unorganized co-operation', and what one of his fellow-isolationists described as 'co-operation by detachment'. According to this theory of co-operation each member of the international community retains its complete freedom of action to determine at a given moment whether or not it will co-operate, what form that co-operation shall take, and the nature and extent of its own contribution, subject to no previously assumed obligations or commitments.

Manifestly, such a system would necessarily involve much wasted effort and would most likely lead to ineffective results.

It is no less true in the accomplishment of international objects than in private business and finance that organization and concerted action are the methods by which common objects are most effectively achieved. Nevertheless, Senator Lodge, the leader of the American isolationists, during the six years following the close of the Great War, vigorously

defended this method of co-operation in the Senate. In one of his last public utterances, which you will find in an article published in *Foreign Affairs* in May 1924, only a few months before his death, he asserted that America could serve humanity best by a policy of isolation, i.e. by determining for herself as occasions arise, unhampered by prior commitments and obligations, whether she should co-operate with the other nations and, if so, what form that co-operation should take. Secretary of State Hughes, at the time, also appears to have been in sympathy with this theory of international co-operation and of the duty of America. American influence, he said, must not be 'pooled', by which he clearly meant to say that if it were exercised jointly with others it would be enfeebled and dissipated.

Even more extraordinary was the reasoning of an American ambassador to one of the Great Powers—an appointee of President Harding—in a book written and published by him under the title *A Diplomat Looks at Europe*. Our contribution, he said, must be through a policy of 'co-operation by detachment'; our influence must not be thrown away by our becoming 'a party to the suit' (as if co-operation among the nations for the achievement of common ends is a lawsuit, and that if the United States participated it would place her in the position of being a defendant). 'America', he said, 'can best help the world by serving as a judge'—and he significantly added, 'whenever she is called upon to do so'. Here we have a statement of the philosophy of a certain type of American isolationists, who appear to conceive America's role as being limited to that of sitting in judgement upon the controversies and problems of the other nations.

Such a theory of America's part as a member of the world community is very flattering to ourselves, it must be con-

fessed. Unfortunately, however, it assumes that our judgement and advice are likely to be sought and followed by the other nations; and that if tendered and accepted it would lead to a happy solution of the problems upon which it is given—an assumption which, unfortunately, cannot be safely proceeded upon.

Other isolationists appear to believe that America's chief role should be that of dispensing charity to the poor, the impoverished, and the distressed of other lands. President Coolidge, in a public address made by him on 24 October, 1924, catalogued the gifts of money and supplies made by the Government and the people of the United States since the close of the war to the hungry and distressed peoples of various nations; and he concluded that this was—I use his exact words—‘a practical workaday’ form of co-operation and one better calculated ‘to promote peace and goodwill’ among the nations than any other service which America was capable of rendering. It must be admitted that the long list of gifts which the President mentioned in his address was impressive, and one in which Americans may feel a just pride, but, considering our vast wealth and the state of our unprecedented prosperity during the years which followed the war—but which were also years of impoverishment and distress for many parts of Europe—these contributions were little more than what considerations of common humanity and generosity required; and they were made with little sacrifice on the part of those who gave them.

But magnificent as they were, they did not exhaust the duty of the nation to the rest of the world. There is no reason to suppose that the beneficiaries of this relief were unappreciative or ungrateful; but they felt that a country which possessed the wealth which made it possible and a

people who were capable of such generosity, should not confine their assistance to the dispensing of charity.

What the world needed was organization, concerted action and effort, and common assumption of responsibilities for the promotion of the general interests of the community of nations, and especially the interests of peace and security. No amount of charitable gifts could ever promote and advance those interests. The co-operation of the United States in the advancement of these objects, if not absolutely essential, was highly important. But the American isolationists, while admitting that organization was highly desirable for Europe, adopted the untenable position that it had little or no interest for America. They were accordingly opposed to American participation in any world organization which would involve for the United States the assumption of responsibilities, commitments, 'involvements', or possible entanglements of any character. The most that their candidate Harding would accept was an 'association' of nations without organs or institutions, which created no binding obligations for its participating members, and which left to each its complete freedom of action. After his election, Mr. Harding even repudiated this concession. Fortunately the world was spared of such a will-o'-the-wisp.

Fortunately, also, for the good name and prestige of our country, from the role of judge, adviser, and dispenser of charity, from the role of co-operator only for the promotion of humanitarian, sanitary, moral, and other social objects, it is actually tending more and more to become an initiator and leader in the common effort for the economic rehabilitation of the world, the reduction of armaments, and the advancement of the cause of international peace generally



iii. *Some Factors in the Development of American Foreign Policy.*

I have only time to refer to some of the factors and conditions which have influenced the foreign policy of the United States, and particularly those which have determined the role which the United States has played in international affairs, and in which I think you can find the explanation, if not the justification, for the failure of the United States to play the role which some believe its opportunity and its capacity required.

First, there are the utterances of the Fathers of the Republic, such as Washington and Jefferson, in regard to alliances—utterances which have been distorted and made to mean what they were never intended by their authors to mean.

Washington condemned permanent alliances, but he expressly stated that America could safely resort to temporary alliances for the accomplishment of particular objects. Jefferson condemned entangling alliances, but as every American historian knows, on two different occasions he advocated an alliance between the United States and Great Britain.

What the Fathers of the Republic had in mind when they warned their country against alliances was the old type of dynastic alliance which was common in the eighteenth century, and under which one of the parties bound itself to go to the assistance of the other in the prosecution of wars in which it had no interest or concern. The Fathers of the Republic never meant to condemn co-operation in great undertakings and enterprises for the advancement of the common interests and peace of the world. That was Wood-

row Wilson's interpretation of their warnings and admonitions; that, I may say, was also the interpretation of Senator Lodge until he became an isolationist in 1919. As late as 1916 Senator Lodge made a speech at Union College in which he advocated the League to Enforce Peace, and, adverting to the warnings of Washington regarding permanent alliances, he said he could not believe for one moment that Washington ever meant to warn the people of the United States against taking part in a great undertaking for the advancement of the general peace.

There were other factors, such as the natural feeling of fear and suspicion of Europe, which existed at the time we began our national existence. We were then a weak and defenceless nation; we were a sort of outcast republic in a world of monarchies; we had few or no financial interests abroad, and hence a policy of isolation and neutrality served our interests better than any other.

#### iv. *A New Outlook.*

But those conditions have totally changed. Thanks to inventive science, the barriers of distance which then separated us from Europe have been broken down. The 'detached and distant situation' of the United States, to which Washington referred in his Farewell Address, no longer exists. Our interests abroad have become huge and worldwide. We are neighbours to-day with the others. I venture to say that there is more intercourse to-day between the United States and Europe, or even between the United States and China, than there was in Washington's day between North Carolina and South Carolina. We are no longer a weak and defenceless nation. Our weakness then has become the strength of the mightiest nation on earth, and to say that

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we cannot co-operate with the other nations in common undertakings without becoming entangled and without losing our freedom is tantamount to a confession that in the great field of diplomacy we are not the equals of the others.

Another factor which has often been dwelt upon has been our provincialism and insularity of outlook, our smug complacency, our ignorance of and lack of interest in international affairs. Woodrow Wilson referred to it on more than one occasion. He said in one of his speeches that America of all nations in the world ought to have the broadest vision of any people, but he was bound to confess that we had raised up an extraordinary number of provincial thinkers whose vision did not extend beyond the frontiers of their local communities. Whatever the facts as to this may have been formerly, it is no longer true. I venture to say that the American people to-day are as much interested in international affairs as the people of any country. I will not say that they are as well-informed as those of some countries, but I doubt whether any people in the world are making more earnest efforts to become acquainted with international affairs than the American people. You can find the evidences of this in the establishment of clubs devoted to the study of international affairs, the establishment of new journals on international affairs, the increased space in the newspapers which is given to the discussion of such matters, the establishment of new chairs of international affairs in the Universities, and the multiplication of students who are pursuing courses in international relations. Everywhere in America to-day there is an intelligent and increasing interest in international affairs. Mr. Root has remarked that the American people have learned more about foreign affairs during the last ten years than they learned during the eighty years preceding the World War.

I have no time to discuss all the obstacles that have stood in the way of a progressive, broad-minded, and far-sighted American foreign policy. But I cannot refrain from mentioning the peculiar organization of the treaty-making power under which a small group of Senators have become the masters of our foreign policy, and who have, I venture to say, been the principal obstacle to the participation of the United States in common efforts with the other nations for the advancement of the common interests. But in spite of this and other obstacles there have been times when, led by strong and vigorous Presidents, with a high conception of the national opportunity and duty of the United States, America has come out of its shell and played an important, sometimes the leading, part in great movements for the betterment of the world.

I may mention our participation in the Moroccan Conference of Algenciras in 1906. Thanks to the vigorous action of President Roosevelt, our participation in that Conference, in my judgement, led to a happy conclusion and the peaceful settlement of the issues involved. Then there was President Roosevelt's action in terminating the Russo-Japanese War; Mr. Kellogg's action in bringing about the general acceptance of the Briand-Kellogg Pact; and lastly may be mentioned the Hoover proposal for a debt moratorium, a proposal which was interpreted in many quarters as a definite abandonment by the United States of its traditional policy of isolation. I did not share the latter view, because I do not believe that the traditional policy of the United States has ever been a policy of isolation, except during the short period following the close of the World War, when a brief regime of isolation was imposed upon the United States by a small group of leaders, some of whom I fear were

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animated less by any real conviction that a policy of isolation would serve the real interests of the United States than they were by hostility to a particular man who is described as the founder of the League of Nations.

### *v. The United States and the League.*

It would be like carrying coals to Newcastle to review here the policy of the United States towards the League of Nations. But I do want to say a few things in this connexion.

I doubt if any man or woman could have been found in the United States in 1917, or even in 1918, who would have dissented from the following statement of President Wilson made in 1917: 'In every discussion of the peace which must end this war it is taken for granted that that peace must be followed by some definite concert of power which will render for ever impossible a catastrophe similar to that through which the world is now passing. Every lover of mankind, every sane person in the world will take that for granted. It is inconceivable that the people of the United States should take no part in this great enterprise.' That was the practically unanimous view of the American people at that time, and as late as 1918 all the great Republican leaders who subsequently distinguished themselves by their opposition to the League were its supporters: Hughes, Lodge, Root, Harding, Kellogg, and Coolidge. Senator Lodge was one of the most ardent supporters of the League to Enforce Peace in 1916 and 1917; and, as I have said, he interpreted the warnings of the Fathers of our country as being in no sense incompatible with American participation in such an enterprise. Then he changed his mind, became an isolationist and

denounced the League as an unholy alliance made in Europe, and one which America should keep out of.

Calvin Coolidge, in September 1920, when he was a candidate for Vice-President, made a speech in Massachusetts, in which he advocated American membership of the League. Mr. Hoover also was in 1920 an enthusiastic supporter of the League which he declared to be the hope of the world.

Of the four ignoble years from 1920, when we treated the League with discourtesy, when we belittled and ridiculed it, when teachers were warned not to speak about it to their students, when intolerance, misrepresentation, and downright hostility to it were by no means lacking, it is unnecessary for me to speak here. They are matters of common knowledge.

I recall in this connexion a speech of Mr. Root, who was one of those who signed the notorious manifesto of the 'thirty-one' which appealed to the American people to vote for Mr. Harding because he had given Mr. Root assurances that if he were elected he would do all in his power to get the United States into some sort of League of Nations. It is said that Mr. Root feels to-day that Mr. Harding got his vote in 1920 under false pretences.

In a speech in 1927 accepting the Woodrow Wilson Prize, Mr. Root characterized our early attitude towards the League as one of insensate prejudice and want of sympathy. Speaking as one who had a duty to perform, America's grand old man said: 'What have we the great peace-loving people of America done to help the League formed in friendship to us? No sympathy, no moral support, no brotherhood. We have allowed insensate prejudice, camouflaged futile phrases to represent the true heart of America, with all its latent idealism, with its breadth of human sympathy, with its strong desire that our country should do its

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share for peace and for a happy and noble life. These, my friends, are some of the evils visited upon us by a hateful and contentious spirit from which may the good Lord deliver us.'

When Mr. Coolidge, who supported the League in 1920, became President, he became one of its most vigorous opponents. In his first message to Congress he used these remarkable words: 'For us peace reigns everywhere; we desire to perpetuate it; we attend to our own affairs, conserve our own strength, and protect our own citizens. Our country has definitely refused to adopt and ratify the Covenant. We have not felt warranted in assuming the responsibility which its members have assumed. The incident so far as we are concerned is closed. The League exists as a foreign agency. We hope it will be helpful; but the United States sees no reason to limit its own freedom and independence of action by joining it.'

In my opinion that was one of the saddest public utterances ever made by a President of the United States. The sum and substance of it was an antiquated philosophy of the state of nature, and I should not be surprised if Mr. Coolidge lives to see the day when he will be ashamed of ever having pronounced such an utterance as that. No President of the United States has any authority to say that our country has definitely refused to adopt the Covenant. No President has any authority to write over the door of the League of Nations: 'Closed to the United States'.

I am happy to say those ignoble days of 1920-4 have gone, never to return. To-day we are co-operating with the League in many of its undertakings; indeed, we are now virtually represented at the Secretariat by a diplomatic agent. That is a far cry from the days of 1920, when our Govern-

ment would not even answer the communications which it received from the League.

vi. *The Alternatives.*

As I see the matter, there are two alternatives, either of which the United States may adopt. One is to join the League, assume the full responsibilities which the Covenant creates and to take part directly and wholeheartedly in all League activities. I do not pretend to be a prophet, but I am confident that if the League of Nations survives another ten years and continues to perform the useful work which it has been doing during the past ten years, the United States will be a member.

It is inconceivable that a country whose people possess so much idealism, with so fine a record of co-operation in the past, and with so magnificent an opportunity for constructive helpfulness and even of leadership, should continue indefinitely to remain aloof. I venture to believe that the period of aloofness through which we are now passing is a period of reflection and preparation. It represents an attitude partly of timidity and partly of cautiousness, such as has always characterized the foreign policy of the United States whenever it has been confronted with the problem of joining the other nations in common undertakings involving commitments and obligations. The Americans are waiting because they want to be sure that they will make no mistake; they want to be sure that their co-operation as a member of the League is really essential; and they want to be sure that they can assume the responsibilities which membership carries, without danger to their own national interests.

In my judgement the most hopeful prospect is to be found in the millions of American boys and girls who are being



taught to-day in the schools and colleges by teachers whose sympathies are predominantly on the side of the League. If this goes on another ten years we shall have in America a new generation of voters, the vast majority of whom will be sympathetic towards the League. They will be convinced that the interest as well as the duty of the United States requires it to join the League.

The other alternative is for the United States to remain out of the League, but to co-operate with it on a larger scale.

There is one point concerning which American co-operation with the League, while it remains outside, is most important. As everyone knows, the Covenant provides for a form of coercion or restraint, economic in the first instance, and military if that fails, against members who in violation of their obligations under the Covenant commit aggression against other members. Public opinion may differ, as it does differ, as to the wisdom of this arrangement, but in my opinion it at least contains possibilities. So long as there is a chance that a potential aggressor may find himself face to face with an economic blockade or boycott which may paralyse his power of resistance, the very knowledge of what he may expect to face may serve to deter him from attempting to carry out his aggression. But obviously, if the United States, while remaining out of the League, refuses to respect the joint economic measures of the League against covenant-breaking aggressors, and insists upon its legal right to trade with them, and furnish them with the material means for defying the League and carrying out their aggression, the system which the Covenant provides for restraining them might, and doubtless would, prove ineffective. In my opinion the United States cannot, without making itself a party to the aggression and without violating a plain precept

of international morality, allow itself to encourage and aid in this way a nation which the rest of the world has pronounced to be a law-breaker and a disturber of the peace.

Under these circumstances I venture to suggest that it is the moral duty of the United States to give a solemn assurance that whenever, at least in the judgement of the President—I do not say in the judgement of the Council of the League—the nation against which such measures of restraint have been decreed by the appropriate organ of the League is a violator of the peace and breaker of its pledges to have recourse to pacific means for the settlement of its controversies, such nation shall not be permitted to replenish its resources in the United States for the purpose of carrying out its aggression. No act of Congress, in my opinion, is necessary to authorize the giving of such an assurance. Any President of the United States has the constitutional power to say that so long as he is President he will not accord the protection of the United States to any American national who insists on trading with a nation which in his opinion is an aggressor and a disturber of the peace.

vii. *Leadership.*

I should like to say, in conclusion, that all the signs seem to me to indicate that the American people are awakening to an appreciation of their power of leadership and of their responsibility as a member of the world community. There is no doubt as to this power of leadership.

I recall a letter which Walter H. Page, then Ambassador to Great Britain, wrote to President Wilson during the war. In the course of this letter he said in substance: 'Mr. President, it is as clear to me as the light of day that the leadership of the world is passing to the United States.' Mr. Wilson, in

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his reply to this letter, said: 'I think you are probably right, but what is troubling me is, what are we going to do with that leadership when it comes to us?'

This leadership came earlier than either Mr. Wilson or Mr. Page ever expected, and when it came it was an unique leadership, the like of which I think the world had never seen since the days of Imperial Rome.

The question is still to be answered by the American people. What are we going to do with that leadership which has come to us in such abundant measure as a result of the World War?

President Harding once said that the ancient power of leadership had not left America; but I ask you, what does it avail if a nation has the power of leadership but refuses to exercise it?

Are we going to throw it away? Are we going to dissipate and waste it in fruitless partisan controversy? President Wilson once said, if I may quote him again: 'We have been allowed to become strong in the Providence of God that our strength might prove not our selfishness but our greatness.' On another occasion, referring to the disposition of some Americans to boast of the greatness of our country, he said: 'America first is something to be proud of; it is something to boast of only when it means America first in unselfishness, first in the spirit of fraternity, and first in the extent of the contribution which it makes towards the advancement of our common civilization.'

It is according to this standard and on the basis of this contribution that our country will be judged by history. In my opinion it is a just standard and no American ought to wish that his country should be judged by any other.

## CHAPTER XII

# THE BRITISH EMPIRE AND THE WORLD COMMUNITY

Mr. E. J. PHELAN:

### i. *Evolution in Opposite Directions.*

IN 1927 Professor Zimmern lectured to this Institute on the British Commonwealth and the League of Nations; in 1928 Professor Delisle Burns addressed the Institute on the same topic. You may wonder whether I have the temerity to imagine that there is anything to be added of real importance to the brilliant expositions of two such distinguished students of world politics.

I say 'something to be added,' because on the whole their statements are accurate as far as they go. But in my view they do not go far enough or deep enough. They do not reveal some of the difficulties beneath the surface. These difficulties are, I believe, in the process of solution. But they are worthy of study for two reasons. First, because unless they are plainly defined they may give rise to misunderstanding, and secondly because they have certain general implications as regards the constitutional structure of the world-community which are, in my view, of fundamental importance.

It cannot be too often stated that society without institutions is a nonsense. It has been said that institutions are the life of a society. That is only a half-truth. The other half is that institutions may be its death. They may be its death if they are too rigid; if they do not, or cannot allow society to develop. For society is not a static but an organic

thing. Institutions that are strait-jackets provoke a mad struggle instead of allowing a normal and peaceful development.

Now the great feature, the historical and astonishing achievement of the last decade, has been the endeavour of the world-community to provide itself with institutions adequate to its new needs. I do not require to indicate, except in the briefest way, what those new needs are. Before the age of modern invention communities in the world were self-supporting. They could not be otherwise. With the growth of modern methods of production and transportation they have become dependent on one another. When economic self-sufficiency vanished, sovereignty, whatever might be the legal or constitutional theories, ceased to exist in any real positive sense. No State could in any real sense claim to be sovereign when it could no longer control its economic destiny.

There were two possibilities open when this change took place. The world might have organized itself into larger and larger communities with the idea of arriving at communities which would be large enough to be self-supporting. This was happening in the period preceding the war. Colonial expansion and the jealousy and suspicion thereby engendered was one of its phases. It failed because the only community which could have been completely self-supporting was a community which would have been co-extensive with the surface of the globe. Its failure was what we call the Great War.

The other possibility was the process which the world has followed since the war. Instead of a progressive concentration of authority having sway over larger and larger areas we have had a decentralization, a multiplication of political

units. This would seem to be the very opposite of what was required. And it is the very opposite of what is required unless it is accompanied by some machinery for collaboration as regards common interests.

Economic phenomena are world-wide; economic action and reaction cannot be limited by frontiers or any other barriers set up around the confines of a nation. The peoples of the whole world are in the same economic boat. They can either let it drift on to the rocks of successive economic disasters, or they can act as a coherent crew and attempt some form of intelligent navigation.

The new institutions with which the world is experimenting are precisely institutions which will enable the nations to collaborate in the control of a destiny which they cannot control singly.

These institutions must be such as will permit this collaboration in the fullest sense. If they cramp or chafe, if they obstruct collaboration they must be altered. They are not an end in themselves, but a means. There can be nothing sacrosanct about them. True, they must be given a fair trial. Statesmen and public opinion both require time to get accustomed to what is after all a very novel method of running the world's affairs. But just because they are novel they are still experimental, and we must not be afraid to look frankly at their structure and, if needs be, be prepared to alter and improve it.

Now, what has all this to do with the British Empire? The relevance of the British Empire in this connexion is that it would seem to have been following an exactly contrary development. While the other nations of the world have been increasingly recognizing their interdependence and sacrificing some of their cherished sovereignty in order to

secure the proper functioning of institutions which are a denial of their independence, the nations in the Empire have been moving step by step towards complete independence of one another.

The British Empire was one of the big units to which I referred above, an attempt to have one community large enough to be self-supporting. When the big unit idea seemed to be the solution, there was talk of a Federation. The Great War was the clash between big units. It showed that they could not exist: that they would attempt to swallow one another. The splitting up of the British Empire was the proof that even apart from external conflict the big units were unstable in themselves. And you will remember that the occasion of the Great War was an internal conflict in the Austrian Empire.

Thus the separating out of the British Empire into different units is but another example of the general tendency that we have observed.

But whereas the splitting up of the rest of the world into a larger number of political units has been accompanied by conscious efforts at establishing institutions of collaboration, no similar tendency is evident in the case of the British Empire, but rather the reverse. The process of more complete separation is accompanied by obligations of consultation which are progressively more and more vague.

But absence of collaboration and institutions for collaboration in the British Commonwealth does not mean that the members of the Commonwealth stand aloof from the general effort of the world to create and work the new institutions of interdependence which are necessary. The members of the British Commonwealth of Nations, with one exception,<sup>1</sup>

<sup>1</sup> Newfoundland.

are members of the League, and are thus active participants in the world's endeavour to build up a system of collaboration.

This brings us to the place of the Dominions in the League and the problems which arise out of it.

ii. *The Terms 'Empire' and 'Commonwealth'.*

You will notice that having begun with a discussion of the British Empire and the world community I have now narrowed the field down to a discussion of the Dominions and the League.

Professor Zimmern explained in his lecture<sup>1</sup> that no world community was in existence although we might hope that one was in the process of formation. It would be possible to spend some time in examining how far that process has yet gone. We have of course the League, and we have important States outside the League which participate in many of its activities. There is a growing tendency for them to participate more and more. Thus we may think of the League in a wider sense than that of its legal constitution. We may think of it as composed of members and what we may call Associate members, States who are entering day by day more and more into the fields of international collaboration, but which refuse to enter into full membership. They demonstrate their solidarity with the general evolution towards a world community by an increasing number of good works. But they have not as yet made the profession of faith which full membership in the League involves; they are recognizing to an increasing extent that the world community must be built on what Mr. Hearne called the basis of obligations,<sup>2</sup> and not on the basis of rights; they are accepting in practice more and more fully the idea that the

<sup>1</sup> See p. 114.

<sup>2</sup> See p. 78.



essential characteristic of a State is that it has duties to perform rather than interests to protect.

But it is not my purpose to-day to discuss this evolution in its broadest lines nor the possibilities of finding a new structure into which all these acts of international collaboration might be fitted in a more tidy way than they are at present. The greater part of international collaboration is within the four corners of the Covenant. The League of Nations is the first approximation towards the structure of an international community. No doubt there will be a second approximation and a third and a fourth, but for the moment I think we must take the League of Nations as it exists for the purpose of our discussion this evening.

Now what about the use of the term 'British Empire'? You will remember that I referred to two previous lectures by Professor Zimmern and Professor Delisle Burns, and that both of them used the term 'British Commonwealth of Nations'. I think we must be clear whether the two terms are interchangeable.

I used the term 'British Empire' because I wished to begin by the contrast which I have indicated above between the steady progress of separation of parts of the Empire on the one side, and the steady process of coming together of the other States in the world.

The end of the process of the separating out of the British Empire has been to produce the British Commonwealth of Nations. Both terms, 'British Empire' and 'British Commonwealth of Nations', are frequently used as if they meant the same thing. For example, a recent address by Professor Rappard was entitled 'The British Empire as seen from Geneva', and in that address he proceeded to discuss the relations of Great Britain and the Dominions in the League.

I want to make it clear that to use the term 'British Empire' in this sense is liable to lead to confusion and misunderstanding. Great Britain and the Dominions now form something the proper title of which is the British Commonwealth of Nations. I say the 'proper title' because this is the title used in the most official and authoritative document to which we can refer.

At the beginning of the Imperial Conference in 1930 it was *'The Prime Ministers and other representatives of the Governments of the British Commonwealth'* who sent a message to the King, and it was to *'The Prime Ministers and other representatives of the British Commonwealth'* that the King addressed his reply. Moreover, the report of that Conference refers to the British Commonwealth of Nations throughout. The British Empire is not mentioned once.

What, then, is the British Empire, because nobody, I imagine, would be disposed to argue that it had ceased to exist?

It has nothing to do with the Dominions, and they take no responsibility for it. It consists of Great Britain and her Colonies, Possessions, and Protectorates. It is an Empire in the proper sense of the term, for Empire connotes the idea of an *imperium* or rule from a central seat of authority, and this is no longer in any sense true of the relations between Great Britain and the Dominions.

The reason for the confusion between the two terms is simple. Some of the Dominions began as Colonies; they were then part of the British Empire; the name continued to be used as they grew in independence; there was a transition stage which had no official name. Then came the Irish Treaty, the first official indication that the Dominions had passed out of the Empire and become parts of a new, let

us call it, group. The old name of 'Empire' persisted out of sheer habit; it came easily to peoples' tongues. It was used even in the report of the 1926 Imperial Conference side by side with the name British Commonwealth. Now the report of the 1930 Conference has made it clear that the British Commonwealth of Nations is the correct title to be used when we wish to speak of Great Britain and the Dominions.

This question of name is important because the use of the word 'Empire' when 'Commonwealth' is meant leads to a misunderstanding of the position of the Dominions. 'The British Empire', says Professor Rappard, 'is a member of the League. The fundamental principle (of the League)', he continues, 'is that no member of the League shall have more than one vote in its counsels. Why two British members of the Council?'

Here we see the confusion in the mind of a student of international politics who is renowned for the clarity of his thought.

There is a permanent seat on the Council allotted to the British Empire. If we use the term 'British Empire' when we mean 'Great Britain and the Dominions', the position of a Dominion on the Council becomes difficult to explain. But once we realize that the Dominions are something outside and apart from that Empire the difficulty disappears: there is no anomaly and no paradox.

And there is no possibility of referring, as Professor Rappard does in a further passage, to 'the member of the Council representing the Dominions'.

When a Dominion sits on the Council it sits as representing not the other Dominions, since the group of Dominions has no right to a seat on the Council, but all those members

of the League who have no seats. In other words, a Dominion member of the Council is like any other elected member; it represents its constituents.

Professor Rappard is led by his initial confusion between Empire and Commonwealth to make the following extraordinary statement: 'Why should it be provided that in the case of a conflict in which the Empire should be involved the member of the Council representing the Dominions should, under Article XV of the Covenant, be debarred from voting?'

I shall return to this question later. For the moment it is sufficient to say that as far as I know it is nowhere so provided. Is it implied? The most recent and authoritative study of the relation between the Dominions and the League, that of Professor Noel Baker, distinctly concludes the contrary. He says, if a dispute arises, 'the other members of the Commonwealth need not necessarily be regarded as parties to that dispute', and if they are not parties to the dispute they are not debarred from voting.

Professor Rappard may, as he says, be in a strange and difficult field when he discusses the structure of the British Commonwealth, but he is an acknowledged authority in the League, and it shows the importance of clear ideas about the Commonwealth when we find that a confusion with regard to them may lead to errors about the effect of the Covenant, errors which may tend to diminish the confidence of other States in the fairness of its working and the impartiality of the members of the Council.

### *iii. Are the Dominions Members of the League?*

I have said that the Dominions are members of the League. Are they? It may seem surprising to put such a

question, but it is a question which requires to be examined, and doubts about it are held by some people of no little importance. It would seem that the answer could very easily be found by consulting the list of original members of the League, which is appended to the Covenant.

If we look at this Appendix to the Covenant we shall find, however, that it contains a somewhat curious typographical arrangement. The names of the original members of the League are given in alphabetical order, but that alphabetical order is broken in so far as the Dominions are concerned. The Dominions are grouped together, and in printing their names are set back a little from the line of the other States. What is the significance to be attached to this peculiar typographical arrangement? Personally I am inclined to think none. But enormous implications have been read into it which amount, in fact, to saying that the Dominions are not members of the League.

The Appendix to the Covenant of the League does not contain the name of the Irish Free State, which was not in existence at the time when the Covenant was drawn up. The Irish Free State was admitted to membership of the League by the Assembly, and it may therefore be argued that the membership of the League enjoyed by the Irish Free State, if the inset to which I have referred has the enormous implications which some people pretend, is something at all events different from the membership enjoyed by the other Dominions. To this it may be replied that the Irish Free State was admitted to the League as a British Dominion and therefore that its admission connoted only such membership as the other Dominions already enjoyed.

Thus the obvious course of consulting the list of members does not afford a satisfactory answer to our question, but

merely serves to define it a little more precisely. What, then, is a member of the League?

The definition of a member of the League may be found in Article 1 of the Covenant, which says:

*'Any fully self-governing State, Dominion, or Colony not named in the Annex may become a member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval, and air forces and armaments.'*

The argument has been used that the Dominions cannot claim full international personality simply by pleading their membership of the League, because Article 1 just quoted provides that communities other than States, namely, Dominions and Colonies, can become League members. But if we look at the essential provisions of this Article of the Covenant and leave aside for the moment the terms 'State', 'Dominion', and 'Colony', it would seem to be perfectly clear that the only kind of community which can become a member of the League of Nations is a community which is able to *'give effective guarantees of its sincere intention to observe its international obligations'*. This means that such a community must have the capacity to enter into international obligations. It would be absurd to ask a community to give guarantees to observe obligations which it could never contract.

I have never heard of a Colony which had the power of contracting international obligations. International obligations may be applied *in* it and they may be contracted *for* it, but they cannot be contracted *by* it.

What, then, does the word 'Colony' mean in Article 1 of

the Covenant? Its presence there is to be explained on the lines of what I said a few moments ago about the transition between the British Empire and the British Commonwealth. When the Dominions went to Paris, their international position was very much less clear than it is now. It was, perhaps, clear to themselves, somewhat less clear to the British Government, and utterly and completely obscure to the other Governments which were represented at Paris.

At Paris the Covenant of the League was drawn up and the original members of the League were named. It must be remembered, and the point is important, that the original members of the League were not admitted to the League *by the League*. The Covenant is not the work of the League of Nations, and, in particular, the Annex to the Covenant was not drawn up in virtue of Article 1 of the Covenant. The Covenant was drawn up by a certain number of Powers meeting at Paris. They had no rules to apply; they took their decisions for a host of reasons which have no foundation in any written constitution. So far as they were concerned, Canada, Australia, South Africa, and New Zealand were communities which had taken part in the war and which demanded in recognition of the role they had played a place in the councils of peace. The British called these communities 'Dominions'; the other States called them 'Colonies'. When Great Britain herself was only slowly getting used to the term 'Dominion', it is not surprising that other States should have thought of the Dominions as 'Colonies'. There was the same simultaneous use of the terms 'Dominion' and 'Colony' as there is to-day in many quarters of 'British Empire' and 'British Commonwealth'. What the States in Paris thought roughly was this: Here are a certain number of communities, self-governing in some

measure not actually defined, big enough and powerful enough to have made an important contribution to the effort of the war. Great Britain supports the demand of these communities for membership of the League. The other Powers agreed, but they said: 'If certain British Colonies are to be admitted to the League, why not the Colonies of other Powers?' It was conceivable that a French Colony, for instance, might at some period attain to the kind of measure of independence attained to by Canada. It was unlikely that if it did so the French would necessarily christen it a Dominion. They might either go on calling it a Colony, or they might call it by some new name. But they wished to have in the Covenant the possibility of admitting such a community to the League of Nations. They accordingly stated in the constitution of the League that a Colony might be admitted to membership on the condition that it was fully self-governing, and they went on to define what they meant by 'self-governing', namely, that it should be able to give effective guarantees for the observance of its international obligations.

Article 1 of the Covenant, therefore, in my view means that no community, whatever it may be called—State, Dominion, or Colony—can be admitted to the League unless it is a community which has the capacity to contract international obligations.

Even if the text were less clear than it is, the proof of this interpretation is to be found in the other Articles of the Covenant and in the nature of the organization which the League of Nations is. The League of Nations is set up, as the Preamble to the Covenant indicates, 'to promote international co-operation and to achieve peace and security'. It is to do this in part 'by the acceptance of obligations not to



resort to war'. These obligations must be international obligations: clearly no other obligations than international obligations could prevent war in the sense in which the word 'war' is used in the Covenant. Moreover, one of the main means of achieving international co-operation must clearly be the negotiation of treaties and conventions, and if we take the history of the League we shall see that this is the method which has, in fact, been followed in a very large degree.

Clearly it would be absurd to create an organization for certain purposes, purposes which could only be achieved by the acceptance of international obligations, and then to provide that that organization might contain members which by definition could not enter into international obligations.

Therefore in my view it is clear beyond any shadow of doubt that Article 1 of the Covenant means that a member of the League must be a community which can contract international obligations and be responsible for the international obligations which it does contract.

It may be urged that there is one insuperable objection to this theory, and that that objection is India.

Nobody could affirm that India was entitled to enter into international obligations on her own responsibility. Any treaty obligations which have been accepted by India, if ratification by the King has been required, have been ratified by an instrument of ratification signed by the King on the advice of the British Government, and less formal but no less binding acceptance of international obligations where the intervention of the King is not required has been usually made by the Secretary of State for India, that is by a British Minister who is not under Indian control.

The position of India would seem therefore to destroy

the theory which I have just been putting forward as regards the meaning of Article 1.

The answer, however, I have already indicated. The answer is that India was not admitted to the League by the League. India was not admitted to the League under Article 1 of the Covenant. The admission of India to the League and the conditions pertaining thereto were in no way defined by the League constitution. India was admitted to the League by the Powers in Paris, who might, if they had so chosen, have admitted the City of London or the Falkland Islands.

My argument may therefore be summarized as follows: any community admitted to the League by the Assembly in virtue of the Covenant must be a community having the capacity to enter into international obligations: the Irish Free State was admitted in those conditions, and therefore has the capacity to enter into international obligations: and if the other Dominions have the same control of their internal and external affairs as the Irish Free State, then the other Dominions also have the capacity to enter into international obligations.

iv. *The Value to be Attached to the 1926 Report of the Imperial Conference.*

I may be asked, but why go to all this trouble to deduce from Article 1 of the Covenant the capacity of the Dominions to enter into international obligations? Has not the 1926 Report of the Imperial Conference stated that '*the Dominions are autonomous communities in no way subordinate to one another in any aspect of their domestic or external affairs*'?

It has. But what is the value of that statement? The value of a statement and nothing more. If the cities of

Liverpool, Birmingham, and Sheffield were to meet and to adopt a report saying that they were '*autonomous communities in no way subordinate to one another in any aspect of their internal or external affairs*', it would have a greater value. It would have the value of being a statement, but it would have the further value of being a statement which everybody would consider to be true, though perhaps somewhat futile, seeing that these cities have no external affairs.

Everybody did not consider the statement in the 1926 Report to be true, or at all events many people regarded it as only a half-truth. Important authorities on the status of the Dominions were prepared to argue, and did argue, that the paragraph which I have just read should be really read as follows: '*The Dominions are autonomous communities in no way subordinate to one another in any aspect of their internal affairs, but subordinate to Great Britain in some aspects of their external affairs.*'

But that is not my main reason for my appeal to the Covenant rather than to the Reports of the Imperial Conference.

My main reason is that what the Dominions want is the recognition of their international personality. If they care about their international personality, and they do, they are right in wanting its recognition, because without recognition it does not exist. The essential proof of the existence of an international person is that other international persons recognize him. If five individuals come together and decide to be international persons, that does not make them international persons. They might draw up as many reports as they liked stating that they were Swiss citizens, but they could only be Swiss citizens in fact the day when other Swiss citizens admit that they are.

The meetings of the Imperial Conference from the point of view of settling the international personality of the Dominions had just the value of a meeting like that, with this difference, that there was a sixth person present and he was a Swiss. But a meeting of five non-Swiss with one Swiss cannot transform the five non-Swiss into Swiss. It may be said that they have made a little progress. They have been recognized by one Swiss. That is a beginning, and in the course of time it may be possible to get the recognition of the necessary majority of Swiss citizens.

But the 1926 Imperial Conference did not go that far. There was one international person present whose claim to international personality cannot be questioned, namely, Great Britain. The 1926 Conference might have taken the form of Great Britain recognizing the Dominions as international persons. But the one international person present refused its recognition.

Recognition by international persons of another international person, or of a claimant to international personality, means, of course, recognition in a technical sense, not just raising one's hat or bowing; it means in international law recognition that the claimant possesses the attributes possessed by other international persons.

Now the fundamental attribute of an international person is his ability to enter into international obligations. There are various marks by which an international person may be known. Different authorities give different lists, but they all include the power to enter into international obligations, and the other marks that they sometimes suggest might be used all imply treaty-making power.

At the 1926 Imperial Conference, Great Britain did not say to the Dominions, 'I recognize you as international

persons: I recognize that any of you can enter into international obligations with me: I am an international person, and therefore if you can make a treaty with me you are international persons too'.

What Great Britain said was exactly the contrary: 'You cannot make a treaty with me.'

Thus the fractional recognition which Great Britain might have given she did not give.

It is true that the 1926 Report envisaged the making of treaties between the Dominions and international persons other than Great Britain. But these other international persons were not consulted: they were not asked to agree that henceforth the Dominions could make treaties with them: they were not even informed that the Conference made this claim as regards the Dominions.

The conclusion, I think, is clear. The 1926 Conference did not admit the Dominions to the family of nations, nor confer on them any measure of international personality.

The basis on which the Dominions may claim to be international persons is mainly to be found, therefore, in their membership of the League. There, their claims to have the capacity to enter into international obligations, the fundamental mark of international personality, have been recognized by the formal act of the Assembly when it admitted the Irish Free State to membership. Great Britain voted for the admission of the Irish Free State, and in so doing she gave formally, before an international assembly, her individual recognition of the Dominions' capacity to enter into international obligations.

Of course, the 1926 Report dealt with many other questions. I am not arguing that it had no value, nor that it did not contribute to a clearer understanding of Dominion

status. It provided, in particular, a great deal of evidence as to the status of the Dominions which international persons could take into account in deciding to grant or to refuse recognition. I cannot here go into all the constitutional issues that it raised and in almost all cases clarified in a way satisfactory to Dominion susceptibilities. But important and interesting, and not wholly irrelevant, as they were, they were secondary compared to this issue of international personality. The 1926 Report, if it clarified other issues, obscured this particular issue, and it did it in a complicated way into the detail of which it is unnecessary to enter: unnecessary because we do not need to dissect down through all the checks and balances of Balfourian drafting to discover a pronouncement which has been made quite unambiguously in a more formal way.

The denial of the capacity of the Dominions to enter into international obligations with one another or with Great Britain is set out in a Note addressed to the Secretary-General of the League of Nations on 27 November, 1924, in the following terms:

‘Since the Covenant of the League of Nations came into force His Majesty’s Government have consistently taken the view that neither it nor any convention concluded under the auspices of the League are intended to govern the relations *inter se* of the various parts of the British Commonwealth.’

That Note was communicated by the Secretary-General to all the members of the League. It would only confuse the present discussion to detail the circumstances which led to the Note being sent, and naturally it did not pass without a protest from the Dominion involved, namely, the Irish Free State, which, on receiving the Secretary-General’s communi-

cation, replied to the effect that it 'was unable to accept the contention that the clear and unequivocal language of that article (18) is susceptible of any interpretation compatible with the limitation which the British Government now seek to read into it'

I want to emphasize not the particular point at issue, namely, Article 18, but the general and comprehensive character of the British Government's assertion. Neither the Covenant nor any convention concluded under League auspices is to operate *inter se* between the members of the Commonwealth.

Now, what does that mean? It would seem to mean that the Dominions are not members of the League in the same sense as other communities are members of the League.

But nowhere in the Covenant is there any provision for two categories of membership—membership with general obligations, and membership with limited obligations. The fundamental principle of the League, as Professor Rappard said, is equality between its members, equality of rights and duties. Every member has the same fundamental rights, the same right of protection derived from the performance of their duties and the exercise of their rights by the other members of the League. Members can leave the League. They cannot contract out of some of its obligations, divest themselves of some of their rights and duties, and remain members.

If this is correct, then the British Note amounts to saying that the Dominions are not members of the League.

#### *v. Implications of the Inter se Doctrine.*

Just think of some of its implications. Suppose a Dominion flagrantly violates the Covenant—I am talking in terms of

legal hypothesis, not of political probability. The other Dominions are to be bound by none of the obligations of the Covenant which concern the action to be taken against a covenant-breaker member. A Dominion is sitting on the Council at the time: the Council has to take action. Is the Dominion representative to say, 'I am sorry, gentlemen, but the Covenant is non-existent as far as I am concerned in this case'?

Let us look at the principle involved quite apart from any prejudices or loyalties that we may have. Suppose such a doctrine applied not to the Dominions but to some other group, say the group of South American States or to the Little Entente. Would it be possible to have a League at all based on the principle that its fundamental obligations were not to operate within groups of its members?

And what about the same principle as it applied to conventions negotiated under League auspices? The whole constructive effort of the League is based on the gradual development of conventional law. The whole problem there is a problem of equality of obligations. The condition of success is the mutual guarantees that are given as regards the application of conventions.

Take labour conventions which involve a restriction on possibilities of commercial competition, which involve sacrifices of competitive power in the world's markets. Members cannot and do not enter into them lightly. Their guarantee is that they are given a right of mutual supervision and the possibility of the lodging of complaints by any party to a convention that it is not being applied by another party.

Suppose, to take a hypothetical example, a convention is ratified by France and by six Dominions. France enters into



six separate international agreements. France commits her national honour six times, runs six separate risks of complaint, of inquiry, of condemnation by The Hague. Each of the Dominions which ratifies enters into one engagement and runs one risk. Is this the kind of equality on which it is reasonable, as a principle, to expect to be able to build up international co-operation, not only now but to-morrow, when some of the Dominions may be much more important political and industrial units than they are to-day, and when Dominions may be more numerous than they now are, for we can already see other Dominions in the making?

vi. *Practical Difficulties to which the Doctrine may give rise.*

The above is a brief description of the difficulty which exists as regards the relations between the British Commonwealth and the League. I am not attempting to allocate any responsibility for it. I am not setting it forward as a Dominion grievance nor as something for which Great Britain is to be blamed. If I quoted the British Note of 1924 I did so because of its clarity. Similar conclusions may be drawn from the 1926 Report to which the Dominions agreed. I have attempted to set before you not a political disagreement into which it would be improper for me to enter, if it existed, but a structural contradiction between a theory of inter-Commonwealth relations and the constitution of the League.

How is it to be solved? I think it will be solved by a fuller understanding of international responsibilities. I think, for the reasons I have given, that the Dominions are members of the League, and that the Covenant does apply as between them. Theories based on a reluctance to admit the facts cannot alter the facts themselves. It is the steady recognition

of the facts that will remove the difficulty, and that recognition will come with events.

The issue at present is largely a theoretical one. The Dominions go on participating in the League, and making immensely valuable contributions to the work of international collaboration, and nobody thinks of refusing them admission to a League meeting on the ground that there is a doubt about their membership. They act as members of the League, and the extreme circumstances have not arisen, and it may be hoped will never arise, in which this conflict of theories might seriously embarrass the relations of the Commonwealth with the League. Moreover, the point has no longer any great measure of practical importance as regards the recognition of the international personality of the Dominions. They have their Ministers in foreign capitals: they are multiplying the number of their independent treaties with foreign powers: there is now sufficient precedent to prove that they do in fact act as international persons act. The interest which the question possesses is not now an essentially Dominion interest, but a League interest.

But although the issue is also theoretical as regards the League, in so far as it is unlikely to lead to any fundamental conflict productive of serious embarrassment, it is not without practical results which are regrettable because they hinder the efficiency of the League's machinery.

The most outstanding example is the case of the Optional Clause. You will remember that the Labour Party, before it came into office, was deeply committed to the acceptance of that clause, and it will no doubt be generally agreed that the adhesion of the British Government to the Optional Clause, in view of its previous reluctance to accept it, represented, or should have represented, an immense step

forward in the constitutional organization of international relations.

But when the question of the British adhesion to the Optional Clause arose at the time of the Assembly of 1929, this difficulty concerning the relations of the members of the British Commonwealth *inter se* led to the British adhesion being made in a somewhat complicated form.

Article 36 of the Statute of the Court lays down the method by which the compulsory jurisdiction of the Court may be accepted, and specifies that it may be accepted with certain reservations.

The British Government accepted the Optional Clause with a reservation that the compulsory jurisdiction of the Court was not to apply to any dispute between the British Government and any other member of the British Commonwealth of nations. I may mention incidentally that the Irish Free State accepted the Optional Clause without any such reservation.

Here we have again the same conflict of theory as occurred in 1924. But here its results are possibly very much more serious.

It is arguable that in accepting the Optional Clause it is only possible to accept it with such reservations as the Optional Clause itself provides for. The Optional Clause provides that a State accepting it may accept various degrees of compulsory jurisdiction, and it adds that these may be accepted on condition of reciprocity. The view has been held that a State accepting the Optional Clause can accept as much or as little compulsory jurisdiction as it pleases. But, whatever be the amount of compulsory jurisdiction which it accepts, it accepts that amount *vis-à-vis* every other State which has accepted the same amount or more. In other

words, the Optional Clause allows a very considerable latitude as to the questions which a State may accept as coming within the sphere of the compulsory jurisdiction of the Court, but it allows no discrimination as to the international persons as between whom the measure of compulsory jurisdiction accepted is to apply. The words of Article 36 are that compulsory jurisdiction is accepted 'in relation to any other member or State accepting the same obligation'. It is argued, therefore, that, for instance, it would not be possible for France to accept the Optional Clause and say, 'I accept the compulsory jurisdiction of the Court as regards every other member of the League except Germany', or for Germany to accept the Optional Clause and say 'I accept the compulsory jurisdiction of the Court as regards every other member of the League except Poland'.

Now if a reservation as to the persons to whom the Optional Clause applies is an invalid reservation, any adhesion to the Optional Clause containing such a reservation is itself invalid, and the British Government has not adhered to the Optional Clause.

It can, of course, be argued that exceptions as regards persons are possible, and if this is correct the British adhesion is valid.

It is, however, regrettable that there should be any doubt about it. Those who regard the entry into operation of the Optional Clause as the most important step towards bringing the world under a rule of law are very much concerned at the amazing ingenuity displayed by States in accompanying adhesions to the Optional Clause with reservations so comprehensive that the legal value of those adhesions is so diluted as to render them almost meaningless. It is surely unfortunate that Great Britain, who recently has been so strong a cham-

pion of the Optional Clause, should, because of the doubtful validity of her own adhesion, be stopped, at all events in some degree, from raising the question of the value of these other adhesions which appear to be mere demonstrations before the eyes of an uncritical public opinion.

vii. *The Unity of the Commonwealth.*

It may be argued that there is another side to the whole of this question: that there is a thing called the unity of the Commonwealth which would be destroyed if the Covenant and conventions concluded under the auspices of the League were to be regarded as binding between the members of the Commonwealth.

I am afraid it is not possible in the time at my disposal to discuss fully this idea of the unity of the Commonwealth.

The phrase 'the diplomatic unity of the Commonwealth' is one which has frequently been used. It is one of those terms which has acquired such a momentum that it carries over the thoughts of unreflecting people into an age in which it no longer represents any reality. If the 1926 Imperial Conference Report in its ambiguous and sometimes contradictory phraseology left, and perhaps left deliberately, some doubt on the subject, that doubt has since been removed both by a number of acts which are precedents to the contrary and by subsequent declarations and constitutional developments.

I will only mention two of these.

After the 1926 Conference a number of learned authors went to great pains to explain that, although the Dominions had been recognized as possessing control over their external relations, that control was in the last degree subject to a potential super-control in London. The argument was put

in this way. It was admitted that, on the advice of Ministers of the Dominion concerned, the King would issue full powers to a Dominion plenipotentiary to negotiate a treaty on behalf of the Dominion; it was admitted that the King would proceed to sign an instrument of ratification of the treaty thus negotiated, again on the advice of the Ministers of the Dominion concerned. But it was pointed out that the full powers and the instrument of ratification bore the Great Seal of the Realm. The Great Seal of the Realm was in the custody of the Lord High Chancellor in London, and it was argued that its operation was not merely automatic, since the Great Seal had to be released by a sign manual warrant countersigned by one of the British Secretaries of State. Thus, it was argued, if a Dominion desired to enter into a treaty which the British Government thought undesirable it would be possible for that Government to prevent the necessary constitutional formalities being carried out.

Whatever value this argument may have had it certainly has no validity to-day. The Irish Free State, with the consent of the King, is striking its own Great Seal, and in future full powers issued to Irish plenipotentiaries and instruments of ratification signed by the King on behalf of the Irish Free State will bear not the Great Seal of the Realm, but the Seal of the Irish Free State. Similar seals, in the near future, will no doubt be used in the case of South Africa and of Canada, and possibly of the other Dominions.

There remained one other possibility of a final central control over foreign affairs within the Commonwealth. That further control might have been exercised by a power which it was maintained existed in the British Parliament at Westminster to adopt legislation binding upon the Dominions.

At the Imperial Conference of 1930 a Draft Statute was drawn up, known as the Statute of Westminster, which provides that

*'no law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England or to the provisions of any existing or future Act of Parliament of the United Kingdom or to any Order, rule, or regulation made under such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule, or regulation in so far as the same is part of the law of the Dominion.'*

The British Government agreed to the terms of this Statute at the Imperial Conference, and thus the constitutional principle is placed beyond doubt. When the Parliament at Westminster has adopted the Statute of Westminster, which it is certain to do, since it constitutes an agreement between all the members of the Commonwealth, there will be no longer any valid legal argument that there exists any residual legal power in the Parliament at Westminster which could be invoked to diminish or restrict the freedom of the Dominions in the conduct of their international affairs.

One last argument might conceivably be put forward, namely, that since the Statute of Westminster will be passed by the Parliament at Westminster, the legal restrictions which it removes might be re-imposed by an Act of the same Parliament at some future time; in other words, if the Parliament at Westminster is competent to adopt the Statute of Westminster the same Parliament could, if it so desired, repeal it.

The answer to this is that an argument can be carried so

far as to have a theoretical interest so far removed from the possibility of any practical contingency as to be, except in terms of pure logic, absurd.

The Parliament at Westminster in practice can no more repeal the Statute of Westminster than it can repeal the Act of 1799 which renounced all powers over the American Colonies, and if it repealed the Statute of Westminster the effect would be exactly the same as if it repealed the Act of 1799. Nobody could, I think, argue that a repeal of the Act of 1799 would bring the United States back into the British Empire.

It would therefore seem that there is no sense to be attached to the term 'the diplomatic unity of the Commonwealth' except in so far as the Dominions may on a particular issue, or on a particular occasion, of their own free will decide, after consultation, to take up a common attitude. The diplomatic unity of the Commonwealth is a thing which will no doubt often be apparent in fact, but it is not something which over-rides the free decisions of each member of the Commonwealth, or which fixes in advance the limits within which those free decisions may be taken. The Dominions, as I say, may, in fact, very often present a common diplomatic front; if they do so it will be because they judge it to be in their interests on a particular occasion, or because there is some other kind of unity which will influence their decisions in that direction.

There exist no doubt a whole series of special factors which make for clearer understanding and closer collaboration between the Dominions among themselves than between the Dominions and non-Dominions. It is the cumulation of those factors, which I cannot attempt to analyse now, which really represents the unity of the Commonwealth



As Professor Zimmern has said: 'What unites the British Commonwealth is not a set of institutions such as you have here in Geneva, but something far deeper, something far more intimate, something far more sacred.'

If a unity of that kind requires on occasion that certain international arrangements should not operate as between members of the Commonwealth, there is no difficulty in providing that they shall not so operate. If the members of the Commonwealth came to Geneva and said that in their view a particular international convention which was in process of negotiation should not operate as between them, there is no doubt—and there is plenty of past experience to prove—that the convention would be drawn in such a way as to prevent its *inter se* operation in the Commonwealth. But its *inter se* operation would then be prevented with the consent of the other parties to the convention. There is all the difference between safeguarding the unity of the Commonwealth in this way and attempting to safeguard it by laying down the principle that the Commonwealth is something apart from and outside of the League, and that its unity is something which overrides the Covenant and all international arrangements flowing therefrom.

If there is that real unity of a psychological character—I cannot define it more closely for the moment—in the Commonwealth the best way to destroy it is to precipitate a conflict between the structure of the Commonwealth and the structure of the League. If, on the other hand, the unity is something which constitutes an obstacle to the progressive development of the structure of a world community, then that unity must be sacrificed in the interests of the general good.

The Dominions have chosen to assert that full international

personality to which their adult nationhood is entitled, and which indeed its self-respect requires. But full international personality in the world of to-day involves full responsibility: it involves duties to be fulfilled without fear or favour as regards political friends or even relatives. The new States of the world may have to judge their peers—that is the sanction on which the new world order rests. They cannot have the Statehood and decline the responsibilities, any more than a citizen can accept judicial office and decline to administer the law as regards his relatives and friends.

The apparent paradox of the rapid evolution of the independence of the Dominions and the rapid evolution of the interdependence of other States is not in its ultimate analysis a contradiction. It merely means that two different kinds of communities have set out from different starting-points and are moving in opposite directions towards the same goal. As the Dominions reach up to full international personality the older States come down from the sovereign thrones of international anarchy to less resplendent, but not less honourable, seats around the table of world collaboration.

When the status of the two is identical we shall have found the definition of modern Statehood: there will be one classification containing all those communities on whom devolves the supreme responsibility for the peace and order of the world.



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